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

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

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

RIN 0570–AA85

Guaranteed Loanmaking and Servicing Regulations; Correction

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final rule published in the **Federal Register** on June 3, 2016, entitled ''Guaranteed Loanmaking and Servicing Regulations.'' The Rural Business-Cooperative Service (Agency) is an agency within the Rural Development mission area of the United States Department of Agriculture (USDA) responsible for administering the Business and Industry (B&I) Guaranteed Loan Program. The B&I Guaranteed Loan Program is authorized by the Consolidated Farm and Rural Development Act and provides loan guarantees to banks and other approved lenders to finance private businesses located in rural areas.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: David Chestnut, Rural Development, Business Programs, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 3224, Washington, DC 20250–3224; email: *david.chestnut@wdc.usda.gov;* telephone number: (202) 401–0158.

SUPPLEMENTARY INFORMATION:

Need for Correction

On June 3, 2016, the Agency published a final rule for the Business and Industry (B&I) Guaranteed Loan Program (81 FR 35984). Since then, the Agency has discovered the need for a correction to the regulation regarding provisions relating to the New Markets Tax Credit (NMTC) program.

The preamble of the final rule publication noted that the rule has been expanded to include a lender's leveraged loan to accommodate the mechanics of the NMTC program. The Agency has received comments from many practitioners of the NMTC program that the Agency has incorrectly stated in § 4279.116(b) that a ''sub-CDE'' is the borrower in a leveraged equity transaction for the NMTC program. A NMTC sub-CDE is not a borrowing entity; it is a lending entity established for a single specific NMTC investment. The correct borrower in the mechanics of a leveraged equity NMTC transaction is an investor fund entity owned by a NMTC investor and a leveraged lender, which has been established for a single specific NMTC project. The investor fund entity makes a qualified equity investment to the sub-CDE that in turn provides loans to an eligible business. To correct this error and accommodate the mechanics of a leveraged equity transaction within the NMTC program, the Agency is replacing the word ''sub-CDE,'' with the words ''investor fund entity'' as it relates to an eligible borrowing entity.

List of Subjects in 7 CFR Part 4279

Loan programs—Business and Industry, Direct loan programs, Economic development, Energy, Energy efficiency improvements, Grant programs, Guaranteed loan programs, Renewable energy systems, Rural areas, and Rural development assistance.

Accordingly, 7 CFR part 4279 is amended by making the following correcting amendments:

PART 4279—GUARANTEED LOANMAKING

■ 1. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

Subpart B—Business and Industry Loans

■ 2. In § 4279.116, revise paragraphs (b) introductory text, (b)(1)(i) through (iii), (b)(2) through (4), and (b)(6),(8),(11),(12), and(13) to read as follows:

§ 4279.116 New Markets Tax Credit program.

* * * * *

(b) *Loan guarantees for the leveraged lender.* The provisions of § 4279.117(s) notwithstanding, an investor fund entity, such as an investor partnership or investor LLC, may be an eligible borrower as specified in paragraph (b)(1) of this section. Paragraphs (b)(2) through (13) of this section identify modifications to subpart B of this part that apply when the eligible borrower is an investor fund entity.

(1) * * *

(i) The investor fund entity must be established for a single specific NMTC investment;

(ii) The lender is not an affiliate of the investor fund entity;

(iii) One hundred percent of the guaranteed loan funds are or will be invested in one or more sub-CDEs that will then be loaned directly to a Qualified Active Low Income Community Business (QALICB), as defined by applicable regulations of the Internal Revenue Service and are or will be used by the QALICB in accordance with §§ 4279.113 and 4279.117. All of the B&I guaranteed loan funds must be ''passed through'' the sub-CDE to the QALICB through a direct tracing method. The QALICB's project must be the ultimate use of the B&I guaranteed loan funds; and

* * * * *

(2) The provisions of § 4279.119 apply except that the loan guarantee limits apply to the QALICB and not to the investor fund entity, who would otherwise be understood to be the ''borrower.''

(3) Section 4279.126 applies to both the borrower (investor fund entity) and the QALICB. The terms and payment schedule of the lender's loan to the investor fund entity must be at least equal to the terms and payment schedule of the sub-CDE's loan to the QALICB. An Agency approved unequal or escalating schedule of principal and interest payments may be used for a NMTC loan. The lender may require additional principal repayment by a co-borrower, such as an owner or principal of the QALICB. The lender or sub-CDE may require a debt repayment reserve fund or sinking fund; however, such fund is not in lieu of a principal

repayment schedule in accordance with § 4279.126 as amended by this paragraph.

(4) Except for § 4279.131(b), § 4279.131 applies to both the lender's loan to the investor fund entity and the sub-CDE's loan to the QALICB. Section 4279.131(b) applies only to the sub-CDE's loan to the QALICB. Section 4279.116(a)(4) also applies when calculating tangible balance sheet equity.

* * * * *

(6) Section 4279.137 applies to both the borrower (investor fund entity) and the QALICB.

* * * * *

(8) Section 4279.161 applies to both the borrower (investor fund entity) and the QALICB. As part of the application completed by the lender in accordance with § 4279.161, the application documentation must include comparable information for the loan (using the B&I guaranteed loan funds) between the sub-CDE and QALICB. The requirements of § 4279.161 apply to the loan application, application analysis and underwriting, and loan documents between the sub-CDE and QALICB. The lender must include these materials in its guaranteed loan application to the Agency.

* * * * *

(11) When complying with the planning and performing development provisions in § 4279.167, the lender is responsible for ensuring that both the sub-CDE's loan to the QALICB and the QALICB's project comply with the provisions in § 4279.167.

(12) Section 4279.180 applies to both the borrower (investor fund entity) and the QALICB.

(13) Section 4279.181 applies to both the borrower (investor fund entity) and the QALICB.

* * * * *

Dated: May 18, 2017.

Chad Parker,

Acting Administrator, Rural Business-Cooperative Service.

Dated: May 25, 2017.

Chris McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–11736 Filed 6–6–17; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0217; Airspace Docket No. 17–ANM–8]

Amendment of Class E Airspace; Moses Lake, WA; Olympia, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment, withdrawal.

SUMMARY: This action withdraws the final rule, technical amendment published in the **Federal Register** on April 25, 2017. In that action, the FAA amended Class E Airspace at Grant County International Airport, Moses Lake, WA, and Olympia Regional Airport, Olympia, WA. The FAA has determined that withdrawal of the final rule, technical amendment is warranted since a change in the geographic coordinates of the airports will affect the charted boundaries of the airspace, and therefore should be considered under the full rulemaking process.

DATES: *Effective Date:* 0901 UTC, June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

The FAA published a final rule in the **Federal Register** (82 FR 18983, April 25, 2017) amending Title 14 Code of Federal Regulations (14 CFR) part 71 amending Class E Airspace designated as an extension to a Class D or Class E surface area at Grant County International Airport, Moses Lake, WA, and Olympia Regional Airport, Olympia, WA, by eliminating the Notice to Airmen (NOTAM) part-time status. Additionally, the action updated the geographic coordinates of Grant County International Airport, and Fairchild AFB, as listed in the Grant County International Airport Class D and Class E legal descriptions. The FAA found that by updating the geographic coordinates of the airports, the charted boundaries of the airspace were affected sufficiently to warrant full consideration under the rulemaking process. As a result, the final rule, technical amendment is being withdrawn.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

In consideration of the foregoing, the final rule, technical amendment for Docket No. FAA 2017–0217; Airspace Docket No. 17–ANM–8, as published in the **Federal Register** of April 25, 2017, (82 FR 18983) FR Doc. 2017–08241, is hereby withdrawn.

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Seattle, Washington, on May 25, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–11582 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9178; Airspace Docket No. 16–ASO–12]

Amendment of VOR Federal Airways; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VOR Federal airways V–16, V–94 and V–124, in the eastern United States due to the planned decommissioning of the Jacks Creek, TN, VOR/DME navigation aid.

DATES: Effective date 0901, August 17, 2017. The Director of the **Federal Register** approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the air traffic service route structure in the eastern United States to maintain the efficient flow of air traffic.

History

On December 1, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend VOR Federal airways V–16, V–94 and V–124, due to the planned decommissioning of the Jacks Creek, TN, VOR/DME (81 FR 86633) Docket No. 2016–9178. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This final rule amends Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V–16, V–94 and V–124, due to the planned decommissioning of the Jacks Creek, TN, VOR/DME. The route changes are described below.

V–16: V–16 extends between Los Angeles, CA, and Boston, MA. This action amends that portion of the route that reads ''. . .Marvell, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN. . ..'' to read as follows: ''. . .Marvell, AR; to Holly Springs, MS. From Shelbyville, TN;. . ..'' thus eliminating Jacks Creek, TN, from the route.

V–94: V–94 extends between Blythe, CA and Bowling Green, KY. This action terminates the route at Holly Springs, MS, thus eliminating the segments of the route from Holly Springs, MS, through Jacks Creek, TN, to Bowling Green, KY.

V–124: V–124 extends between Bonham, TX and Graham, TN. This action terminates the route at Gilmore, AR, thus eliminating the segments from Gilmore, AR, through Jacks Creek, TN, to Graham, TN.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–16, V–94 and V–124 in the eastern United States due to the planned decommissioning of the Jacks Creek, TN, VOR/DME navigation aid qualifies for categorical exclusion under the National Environmental Policy Act and its agency-specific implementing regulations in FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' regarding categorical exclusions for procedural actions at paragraph 5–6.5a, which categorically excludes from full environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016 and effective September 15, 2016, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–16 [Amended]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; San Simon, AZ; INT San Simon 119° and Columbus, NM, 277° radials; Columbus; El Paso, TX; Salt Flat, TX; Wink, TX; INT Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; to Holly Springs, MS. From Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake,

NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; INT Kennedy 040° and Calverton, NY 261° radials; Calverton; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

V–94 [Amended]

From Blythe, CA, INT Blythe 094° and Gila Bend, AZ, 299° radials; Gila Bend; Stanfield, AZ; 55 miles, 74 miles, 95 MSL, San Simon, AZ; Deming, NM; Newman, TX; Salt Flat, TX; Wink, TX; Midland, TX; Tuscola, TX; Glen Rose, TX; Cedar Creek, TX: Gregg County, TX; Elm Grove, LA; Monroe, LA; Greenville, MS; to Holly Springs, MS.

V–124 [Amended]

From Bonham, TX, via Paris, TX; Hot Springs, AR; Little Rock, AR; to Gilmore, AR.

* * * * *

Issued in Washington, DC, on May 23, 2017.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017–11676 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0216; Airspace Docket No. 17–ANM–7]

Amendment of Class D and Class E Airspace for the Following Idaho Towns; Lewiston, ID; Pocatello, ID; and Twin Falls, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment, withdrawal.

SUMMARY: This action withdraws the final rule, technical amendment published in the **Federal Register** on April 26, 2017. In that action, the FAA amended Class E Airspace at Lewiston-Nez Perce County Airport, Lewiston, ID; Pocatello Regional Airport, Pocatello, ID; and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID. The FAA has determined that withdrawal of the final rule, technical amendment is warranted since a change in the geographic coordinates of the airports will affect the charted boundaries of the airspace, and therefore should be considered under the full rulemaking process.

DATES: *Effective Date:* 0901 UTC, June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (82 FR 19187, April 26, 2017) amending Title 14 Code of Federal Regulations (14 CFR) part 71 amending Class E Airspace designated as an extension to a Class D or Class E surface area at Lewiston-Nez Perce County Airport, Lewiston, ID; Pocatello Regional Airport, Pocatello, ID; and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID, by eliminating the Notice to Airmen (NOTAM) part-time status. Additionally, the action updated the geographic coordinates of these airports and the Pocatello VHF Omnidirectional Radar Range Tactical Air Navigation Aid (VORTAC), the Twin Falls VORTAC, and American Falls Airport listed in the associated Class D and Class E airspace descriptions for Pocatello Regional Airport, and Joslin Field-Magic Valley Regional Airport. The FAA found that by updating the geographic coordinates of the airports and navigation aids, the charted boundaries of the airspace were affected sufficiently to warrant full consideration under the rulemaking process. As a result, the final rule, technical amendment is being withdrawn.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

In consideration of the foregoing, the final rule, technical amendment for Docket No. FAA 2017–0216; Airspace Docket No. 17–ANM–7, as published in the **Federal Register** of April 26, 2017, (82 FR 19187) FR Doc. 2017–08366, is hereby withdrawn.

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Seattle, Washington, on May 24, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–11474 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0054; Airspace Docket No. 17–ANM–2]

Amendment of Class D and Class E Airspace; Aspen, CO; and Pueblo, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment, withdrawal.

SUMMARY: This action withdraws the final rule, technical amendment published in the **Federal Register** on April 25, 2017. In that action, the FAA amended Class E Airspace at Aspen Pitkin County/Sardy Field, Aspen, CO, and Pueblo Memorial Airport, Pueblo, CO. The FAA has determined that withdrawal of the final rule, technical amendment is warranted since a change in the geographic coordinates of the airports will affect the charted boundaries of the airspace, and therefore should be considered under the full rulemaking process.

DATES: *Effective Date:* 0901 UTC, June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (82 FR 18981, April 25, 2017) amending Title 14 Code of Federal Regulations (14 CFR) part 71 amending Class E Airspace designated as an extension to a Class D or Class E surface area at Aspen Pitkin County/Sardy Field, Aspen, CO, and Pueblo Memorial Airport, Pueblo, CO, by eliminating the Notice to Airmen (NOTAM) part-time status. Additionally, the action updated the geographic coordinates of Aspen Pitkin County/Sardy Field, Aspen, CO, and Pueblo Memorial Airport, Pueblo, CO listed in the associated Class D and Class E airspace descriptions for Aspen Pitkin County/Sardy Field, and Pueblo Memorial Airport. The FAA found that by updating the geographic coordinates of the airports, the charted boundaries of the airspace were affected sufficiently to warrant full consideration under the rulemaking process. As a result, the final rule, technical amendment is being withdrawn.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

In consideration of the foregoing, the final rule, technical amendment for Docket No. FAA 2017–0054; Airspace Docket No. 17–ANM–2, as published in the **Federal Register** of April 25, 2017, (82 FR 18981) FR Doc. 2017–08243, is hereby withdrawn.

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Seattle, Washington, on May 22, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–11475 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket Number 160413330–7488–03]

RIN 0648–BF99

Delay of Discharge Requirements for U.S. Coast Guard Activities in Greater Farallones and Cordell Bank National Marine Sanctuaries

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; notice of delay of effectiveness for discharge requirements with regard to U.S. Coast Guard activities.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their previous boundaries with a final rule published on March 12, 2015. The final rule entered into effect on June 9, 2015. At that time, NOAA postponed the effectiveness of the discharge requirements in both sanctuaries' regulations in the areas added to GFNMS and CBNMS boundaries in 2015 with regard to U.S. Coast Guard activities for six months. Since then, NOAA published three documents to extend the postponement of the discharge requirements to provide adequate time for completion of an environmental assessment, and subsequent rulemaking, as appropriate. The current extension would end on June 9, 2017. This document extends the postponement of the discharge requirements for these activities for another six months for the same reasons.

DATES: The effectiveness for the discharge requirements in both CBNMS and GFNMS expansion areas with regard to U.S. Coast Guard activities is December 9, 2017.

ADDRESSES: Copies of documents relating to the expansion, including the Final Environmental Impact Statement (FEIS), final management plans, and the final rule published on March 12, 2015, can be viewed or downloaded at *http://farallones.noaa.gov/manage/expansion_cbgf.html.*

FOR FURTHER INFORMATION CONTACT: Maria Brown, Greater Farallones National Marine Sanctuary Superintendent, at *Maria.Brown@noaa.gov* or 415–561–6622.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2015, NOAA expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their previous boundaries with a final rule (80 FR 13078). The final rule entered into effect on June 9, 2015 (80 FR 34047). In the course of the rulemaking to expand GFNMS and CBNMS, NOAA learned from U.S. Coast Guard (USCG) that the discharge regulations had the potential to impair the operations of USCG vessels and aircraft conducting law enforcement and on-water training exercises in GFNMS and CBNMS expansion areas. The USCG supports national marine sanctuary management by providing routine surveillance and dedicated law enforcement of the National Marine Sanctuaries Act (NMSA) and sanctuary regulations. To ensure that the March 12, 2015, rule did not undermine USCG's ability to perform its duties, at that time, NOAA postponed the effectiveness of the discharge requirements in both sanctuaries' regulations with regard to USCG activities in the expansion areas for six months. Three additional six-month postponements of the effectiveness of the discharge requirements were published in the **Federal Register** on December 1, 2015 (80 FR 74985), May 31, 2016 (81 FR 34268), and December 6, 2016 (81 FR 87803), to provide adequate time for completion of an environmental assessment and to determine NOAA's next steps. Without further NOAA action, the discharge regulations would become effective with regard to USCG activities on June 9, 2017. However, NOAA needs more time to develop alternatives for an environmental assessment developed pursuant to the requirements of the National Environmental Policy Act. Therefore, this document postpones the effectiveness of the discharge requirements in the expansion areas of both sanctuaries with regard to USCG activities for another six months, until December 9, 2017. During this time, NOAA will continue to consider how to address USCG's concerns and, among other things, whether to exempt certain USCG activities in sanctuary regulations. The public, other federal agencies, and interested stakeholders will be given an opportunity to comment on various alternatives that are being considered. This will include the opportunity to review any proposed rule and related environmental analysis.

II. Classification

A. National Environmental Policy Act

NOAA previously conducted an environmental analysis under the National Environmental Policy Act (NEPA) as part of the rulemaking process leading to the expansion of CBNMS and GFNMS, which addressed regulations regarding the discharge of any matter or material in the sanctuaries. Potential environmental impacts of the decision to postpone effectiveness are sufficiently encompassed within the impacts analysis of the environmental baseline and the no action alternative presented in that analysis. Should NOAA decide to amend the regulations governing discharges for USGS activities in CBNMS and GFNMS, any additional environmental analysis required under NEPA would be prepared and released for public comment.

B. Executive Order 12866: Regulatory Impact

This action has been determined to be not significant for purposes of the meaning of Executive Order 12866.

C. Administrative Procedure Act

The Assistant Administrator of National Ocean Service (NOS) finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the notice and comment requirements of the

Administrative Procedure Act (APA) because this action is administrative in nature. This action postpones the effectiveness of the discharge requirements in the regulations for CBNMS and GFNMS in the areas added to the sanctuaries' boundaries in 2015 (subject to notice and comment review) with regard to USCG activities for six months to provide adequate time for public scoping, completion of an environmental assessment, and subsequent rulemaking, as appropriate. Should NOAA decide to amend the regulations governing discharges in CBNMS and GFNMS, it would publish a proposed rule followed by an appropriate public comment period as required by the APA. The substance of the underlying regulations remains unchanged. Therefore, providing notice and opportunity for public comment under the APA would serve no useful purpose. The delay in effectiveness provided by this action will also enable NOAA to fully implement its statutory responsibilities under the NMSA to protect resources of a national marine sanctuary. For the reasons above, the Assistant Administrator also finds good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness and make this action effective immediately upon publication.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: May 30, 2017.

W. Russell Callender,

Assistant Administrator for Ocean Services and Coastal Management.

[FR Doc. 2017–11794 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 17–03]

RIN 1515–AE29

Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials From Peru

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological and ethnological materials from Peru. The restrictions, which were originally imposed by Treasury Decision (T.D.) 97–50 and last extended by CBP Dec. 12–11, are due to expire on June 9, 2017, unless extended. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. The Designated List of archaeological and ethnological materials described in T.D. 97–50 is revised in this document to reflect the addition of Colonial period documents and manuscripts. Accordingly, the restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to indicate this fourth extension. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

DATES: *Effective Date:* June 9, 2017.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0215, *lisa.burley@cbp.dhs.gov.* For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of Trade, (202) 863–6554, *william.r.scopa@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, in U.S. law, the United States entered into a bilateral agreement with the Republic of Peru on June 9, 1997, concerning the imposition of import restrictions on archaeological material from the Pre-Hispanic cultures and certain ethnological material from the Colonial period of Peru (''the Memorandum of Understanding between the United States and the Republic of Peru''). On June 11, 1997, the former United States Customs Service published T.D. 97–50 in the **Federal Register** (62 FR 31713), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological and ethnological materials covered by the restrictions. These restrictions continued the protection of archaeological materials from the Sipán Archaeological Region forming part of the remains of the Moche culture that were first subject to emergency import restriction on May 7, 1990 (T.D. 90–37).

Import restrictions listed in 19 CFR 12.104g(a) are ''effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods no more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists'' (19 CFR 12.104g(a)).

On June 6, 2002, the former United States Customs Service published T.D. 02–30 in the **Federal Register** (67 FR 38877), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2007.

On June 6, 2007, U.S. Customs and Border Protection (CBP), published CBP Dec. 07–27 in the **Federal Register** (72 FR 31176), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2012.

On June 7, 2012, CBP published CBP Dec. 12–11 in the **Federal Register** (77 FR 33624), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until June 9, 2017.

On January 11, 2017, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Peru continues to be in jeopardy from pillage of archaeological and certain ethnological materials, made the necessary statutory determinations and decided to extend the import restrictions for an additional five-year period. Diplomatic notes have been exchanged reflecting the extension of those restrictions for an additional five-year period and amendment of their coverage to include Colonial manuscripts and documents. CBP is amending 19 CFR 12.104g(a) accordingly.

Amended Designated List

The Designated List of Archaeological and Ethnological Materials from Peru is amended to include Colonial period documents and manuscripts. For the reader's convenience, the Designated List from T.D. 97–50 is reproduced below with the additional category of Colonial manuscripts and documents. Note that the Designated List also subsumes those categories of Moche objects from the Sipán Archaeological Region of Peru for which import restrictions have been in place since 1990 (*see* T.D. 90–37).

The Designated List includes archaeological materials known to originate in Peru, ranging in date from approximately 12,000 B.C. to A.D. 1532, and including, but not limited to, objects comprised of textiles, metals, ceramics, lithics, perishable remains, and human remains that represent cultures that include, but are not limited to, the Chavín, Paracas, Vicús, Moche, Virú, Lima, Nazca, Recuay, Tiahuanaco, Huari, Chimú, Chancay, Cuzco, and Inca cultures. The Designated List also includes certain categories of ethnological materials from Peru dating to the Colonial period (A.D. 1532–1821), limited to: (1) Objects directly related to the pre-Columbian past, whose pre-Columbian design and function are maintained with some Colonial characteristics and may include textiles, metal objects, and ceremonial wood, ceramic and stone vessels; (2) objects used for religious evangelism among indigenous peoples and including Colonial paintings and sculpture with distinct indigenous iconography; and (3) Colonial manuscripts and documents. The Designated List may also be found online at: *https://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements/peru.*

The list is divided into seven categories of objects:

I. Pre-Columbian Textiles
II. Pre-Columbian Metals
III. Pre-Columbian Ceramics
IV. Pre-Columbian Lithics
V. Pre-Columbian Perishable Remains
VI. Pre-Columbian Human Remains
VII. Ethnological Objects
  A. Objects Directly Related to the Pre-Columbian Past
  B. Objects Used for Religious Evangelism Among Indigenous Peoples
  C. Colonial Manuscripts and Documents.

What follows immediately is a chart of chronological periods and cultural classifications currently widely used for identifying archaeological remains in Peru. All dates are approximate.

	Rowe	Lumbreras
1440–1532 A.D	Late Horizon	Inca Empire.
1100–1440 A.D	Late Intermediate Period	Regional states and kingdoms.
600–1100 A.D	Middle Horizon	Huari Empire.
200 B.C.–600 A.D	Early Intermediate Period	Regional Cultures.
1000–200 B.C	Early Horizon	Middle and Late Formative.
1700–1000 B.C	Initial Period	Early Formative.
2500–1800 B.C	Late Pre-ceramic	Late Archaic.
4500–2500 B.C	Middle Pre-ceramic	Middle Archaic.
6000–4500 B.C	Early Pre-ceramic	Early Archaic.
12000–6000 B.C	Early Pre-ceramic	Hunter-Gatherers.

The following Designated List is representational and may be amended as appropriate.

I. Pre-Columbian Textiles

Textiles representing these principal cultures and main classes of objects:

A. Chimú

Pillow—Piece of cloth sewn into a bag shape and stuffed with cotton or vegetal fibers. Generally the cloth is made in tapestry technique. 60 cm. x 40 cm.

Painted Cloth—Flat cloth of cotton on which designs are painted. Range between 20 cm. and 6.1 m.

Headdress—Headdresses are usually made of feathers, especially white, green, and dark brown, which are attached to cloth and fitted to a cane or basketry frame. Feathers on the upper part are arranged to stand upright.

Feather Cloth—decorated with bird feathers, especially panels and tunics. They vary in shape and size; generally they depict geometric motif and volutes. Vary from 20 cm.–3 m. in length, and may be up to 1.5 m. in width.

Panels—Chimú panels may be of two types: Tapestry weave or plain-weave cotton. Isolated anthropomorphic designs predominate and may be associated with zoomorphic motifs. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

Belts and Sashes—Generally made in tapestry technique, and predominantly of red, white, ocher, and black. As with other Chimú textiles, they generally depict human figures with rayed headdresses. Up to 2.20 m. in length.

B. Chancay

Loom—Looms are commonly found in Chancay culture, sometimes with pieces of the textile still on the loom. Often these pieces of cloth show varied techniques and are referred to as ''samples.'' 50 cm. x 20 cm.

Loincloth—Triangular panels of cloth with tapestry woven borders.

Dolls—Three dimensional human figures stuffed with vegetal fiber to which hair and other decorations are added. Sometimes they depict lone females; in other cases they are arranged in groups. Most important, the eyes are woven in tapestry technique; in fakes, they have embroidered features. Usually 20 cm. tall and 8 cm. wide.

False Head—In Chancay culture, false heads are made on a cotton or vegetal fiber cushion covered with plain-weave cloth, decorated with shells, beads, metal, wood, or painting to depict facial features. They sometimes have real hair. Usually 30 cm. x 35 cm.

Unku/Tunic—Varied sizes and styles. Some are in plain weave, others in gauze, still others are in tapestry technique or brocade. They are recognized by their iconography, which includes geometric motifs, birds, fish, plants, and human figures. Miniatures are tiny; regular size examples are about 50 cm. x 50 cm.

Belt—Chancay belts are multicolored, with geometric motifs rendered in tapestry technique. Sometimes the ends are finished in faux-velour technique. 2 m. x 5 cm.

Panels—Chancay panels may be made in tapestry technique or may be painted on plain weave cloth. In these latter cases, the panels may depict fish, parrots, monkeys, viszcachas, felines, foxes, and human figures. Vary in size from miniatures to 4 m. x 2 m.

Standards—Chancay standards are supported on a frame of straight reeds covered with cotton cloth which is painted in anthropomorphic designs in ochers and black. Sometimes they have a handle. 20 cm. x 20 cm.

Gauze—Pieces of cloth made in openwork gauze technique, with very fine cotton threads. May have

embroidered designs in the same thread that depict birds or other flora and fauna. Usually 80 cm. x 80 cm.; some are smaller.

C. Nazca

Three-Dimensional Cloth—Cloth made in three dimensions, using needles. Of many and bright colors, knitted in long strips. Each figure is approx. 5 cm. long x 2 cm. wide.

Unku/Tunic—These include miniature and regular-sized tunics. They are generally of one color, mostly light brown. The neck edges, hem, and fringes have multicolored geometric designs. Fringes end in woven braids. Vary in size from miniatures up to approx. 1.5 m. x .8 m.

Bags—There are bags of many sizes, from miniatures to large ones, generally with a narrow opening and a wide pouch. Some are decorated with fringe. Their iconography resembles the unku (tunic), stylized designs in yellow, red, and dark and light blue.

Sash—Nazca sashes are made on special looms. Their ends are decorated with plied fringe.

Tie-Dye (Painted) Cloth—Most common are those made in the tie-dye technique, in which the textile is knotted and tied before it is dyed, so that when it is untied, there are negative images of diamonds, squares, and concentric dots. Most common are orange, red, blue, green, and yellow colors. Vary from approx. 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

Patchwork Cloth—Variant of the Tie-Dye cloth, in which little panels are made and later sewn together so that the resulting textile includes rectangles of tie-dyed panels of different colors. The cloth may have a decorative fringe. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

Wara/Loincloth—Generally made of a flat piece of cloth with colorful borders depicting stylized geometric motifs. They terminate in fringe. 50 cm. x 30 cm.

Fans—The frame is of vegetal fiber provided with twisted cord into which feathers are inserted. Commonly two colors of feathers are attached in this way, such as orange and green, or yellow and blue. 30 cm. x 20 cm.

D. Huari

Panel—Characterized by a complex and abstract iconography. Made in tapestry technique with a range of colors, including browns, beiges, yellows, reds, oranges, and greens. Vary from 20 cm. x 20 cm. to 2.0 m. x 1.8 m.

Unku/tunic—Large with an abstract and geometric iconography. Commonly the designs repeat in vertical bands. Generally these tunics have a cotton warp and camelid fiber weft. Some are so finely woven that there are 100 threads per cm^2. Vary in size from miniatures up to 1.5 m. x 80 cm.

Caps—Most common are the so-called ''four-corner hats'' made in a faux-velour technique that results in a velvety texture. On the base cloth, small tufts of brightly-colored wool are inserted.

Vincha/headband or sashes—These garments are made in tapestry weave or faux-velour technique and depict geometric motifs.

Bags—Bags have an opening which is somewhat narrower than the body, with designs depicting felines, camelids, human faces, and faces with animal attributes.

E. Paracas

Esclavina/Small shoulder poncho—Paracas esclavinas are unique for their decoration with brightly colored images in Paracas style such as birds, flowers, animals, and human figures. Vary in size from miniatures up to 60 cm. x 30 cm.

Mantle—Paracas mantles can be divided into five types, based on their decoration. All are approximately 2.5 m. x 1.6 m.

a. Mantles with a plain field and woven borders;

b. Mantles with decorative (embroidered) borders and plain field;

c. Mantles with decorative (embroidered) borders and a decorative stripe in the center field;

d. Mantles with embroidered borders and center field embroidered in checkerboard-fashion;

e. Mantles with embroidered borders and alternating diagonals of embroidered figures in the center field.

Gauzes—Paracas gauzes are made of one color, such as lilac, yellow, red, or grey. They are generally rectangular and have a soft and delicate texture. Approx. 1 m. x 1 m.

Panels—Paracas panels are generally of cloth and may have been used for utilitarian purposes. They are generally undecorated. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

Skirts—Paracas skirts are of two types: Some are plain, made of cotton with decoration reserved for the ends; there are others that are elaborately embroidered with colorful images rendered in wool. These often form sets with mantles and other garments. Skirts are rectangular and very wide, with two fringed ties. 3 m. long and 70 cm. wide.

Wara/Loincloth—Made of cotton, not as large as skirts, and may have embroidered edges.

Slings—Paracas slings are decorated in Cavernas style, made of vegetal fiber, and are of small size, generally 1.5 m. x 5 cm.

Furs—There are numerous examples of animal skins reported from Paracas contexts, including the skins of the fox, vizcacha, guinea pig. Most are poorly preserved.

F. Moche

Bags—Moche bags are usually square, small, and have a short handle. They are made in tapestry technique with brightly-woven designs. Principal colors used are white, black, red, light blue, and ocher.

Panels—Recognizable by their iconography, these tapestry-technique panels may show people on balsa-reed rafts surrounded by a retinue. They are rendered in a geometric fashion, and are outlined in black and shown in profile. Scenes of marine life and fauna predominate. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

Ornamental canes—Small canes are ''woven'' together in a twill technique using colorful threads that depict anthropomorphic designs. Approx. 10 cm. x 10 cm.

G. Lambayeque

Panels—Lambayeque panels are small, made in tapestry technique, of cotton and wool. Vary from 20 cm. x 20 cm. to 2 m. x 1.8 m.

H. Inca

Sling—There are two types of Inca slings. Ceremonial ones are oversize and elaborately decorated with geometric motifs, with long fringes. The other type is smaller and utilitarian, almost always with decoration only on the pouch and far ends. The decoration is geometric and the slings have fringed ends.

Unku/tunic—Inca tunics are well-made and colorful, mostly in red, olive green, black, and yellow. Decorative elements may be arrayed checkerboard fashion and are found on the upper and lower part of the garment. Vary in size from miniatures up to approx. 1.5 m. x 80 cm.

Bags—Recognized by their bright colors, they have an opening that is narrower than the body and a wide pouch with long fringe and handle. Vary in size from miniatures up to 30 cm. x 20 cm.

Panels—Some are made in cotton using the double-cloth technique, based on light brown and beige. Lines of geometrically-rendered llamas predominate. Vary in size from 20 cm. x 20 cm. to 2 m. x 1.8 m.

Mantles—Inca mantles are of standard dimensions, sometime more than a meter long, generally rectangular. They are multi-colored and made of cotton

warp and wool weft. Most common colors are dark red, olive green, white, and black. Generally 2.5 m. x 1.6 m.

Kipu/quipu—Inca quipus (knotted string mnemonic devices) are made of cotton and wool cords, sometimes with the two fibers plied together. Rarely is their original color preserved, though sometime one sees light blues and browns. Some are wrapped with colorful threads on the ends of the cords. 80 cm. x 50 cm.

II. Pre-Columbian Metal Objects

A. Idols

Anthropomorphic or zoomorphic figures, some of which are hollow and others which are solid. They may be of gold and silver, they may be gilded, or of copper, or bronze. Sizes vary from 2 cm.–20 cm. in height.

B. Small Plaques

Thin sheets of gold, silver, copper, or gilded copper, used to cover the body and made in pieces. They have repoussé or punched designs on the edge and middle of the sheet. Average .6 cm in height.

C. Axes

Almost always T-shaped and solid. There are also axes in a traditional axe head shape. May be of bronze or copper.

D. Mace Heads

These come in a great variety of shapes, including star-shaped, flat, or of two or three levels. They may be made of copper or bronze. Most have a central hole through which a wooden handle was affixed.

E. Musical Instruments

Trumpets: Wind instrument with a tubular body and flaring end, fastened at the joint. May be of copper or bronze.

Bells: Of varying shapes and materials (including gold, silver, copper, and silver-plated copper).

Conos: Instrument shaped from a sheet of hammered metal, with or without a clapper. Can be of copper or silver. Up to .5 m. in height.

Rattles: Musical instrument with a central hold to accommodate a handle. May be of copper or bronze. Vary from 6 cm.–25 cm. in height.

Jingle Bells: Spherical bells with an opening on the lower part and a handle on the upper part so they can be suspended from a sash or other garment. They contain a small stone or a little ball of metal. The handles may be decorated. Jingle bells may decorate another object, such as rhythm sticks, and may be of gold, silver, or bronze. Used in all pre-Columbian cultures of Peru.

Chalchachas: Instruments shaped like a bivalve with repoussé decoration. Made of copper.

Quenas (flutes): Tubular instruments, generally of silver, with perforations to vary the tone.

F. Knives

Knives vary depending on their provenance. They can have little or no decoration and can be of different metals or made of two metals. The best known are the *tumis* from the Sicán culture, which have a straight or trapezoidal handle and a half-moon blade. The solid handle may have carved or stamped designs. Generally made of gold, silver, or copper. In ceremonial examples, the blade and upper part may depict an anthropomorphic figure standing or seated, or simply a face or mask with an elaborate headdress, earspools, and inset semi-precious stones. Tumi handles can be triangular, rectangular, or trapezoidal, and blades can be ovaloid or shaped like a half-moon.

G. Pins

With a straight shaft and pointed end, pins can be flat or cylindrical in cross-section. Most are hammered, and some are hollow. They can be of gold, silver, copper, bronze, gold-plated silver or may be made of two metals. Some pins are zoomorphic; others have floral images, and still others depict fish. Some have a round head; others have a flat, circular head; still others have the shape of a half-moon. There are hollow-headed rattle pins; others have solid anthropomorphic images. Most are up to 50 cm. in length, with heads that are up to 10 cm. in diameter. The small pins are about 5 cm. in length.

H. Vessels

There are a variety of metal vessels; they may be made of gold, silver, gilded silver, gilded copper, silver-covered copper, and bronze. There are miniatures, as well as full-size vessels. Such vessels are known from all cultures. Forms include beakers, bowls, open plates, globular vessels, and stirrup-spout bottles. The exact form and surface decoration varies from culture to culture. Shapes include beakers, bowls, and plates. Average .5 m.–.3 m. in height.

I. [Reserved]

J. Masks

May be made of gold, silver, gilded silver, copper, gilded copper, silver-covered copper, or may be made of two metals. They vary greatly in shape and design. The best known examples come from the following cultures: Moche, Sicán, Chimú, Huari, Inca, Nazca, and Chincha. The northern coast examples often have insets of shell, precious or semi-precious stones, and may have plant resins to depict the eyes and teeth. Almost all examples that have not been cleaned have a surface coloring of red cinnabar. Examples from Sicán measure up to 49 cm. in width by 29 cm. in height. Miniature examples can measure 7 cm. x 5 cm. Miniature masks are also used as decorations on other objects. Copper examples generally show heavy oxidation.

K. Crowns

Thin or thick sheets of metal made to encircle the head. They may be of silver, gold, copper, gilded silver, silver-covered copper, or may be made of two metals. Some examples have a curved central part, and may be decorated with pieces of metal and real or artificial feathers that are attached with small clamps. Found in all cultures.

L. Penachos (Stylized Metal Feathers)

Stylized metal feathers used to decorate crowns. May be made of gold, silver, copper, or silver-covered copper.

M. Tocados (Headdresses)

Headdress ornaments which may be simple or complex. They may be made of one part, or may include many pieces. Found in all cultures. They may take the form of crowns, diadems, or small crowns. They may have two stylized feathers to decorate the crown and to hold it to the hair (especially the Chimú examples). Paracas examples generally have rayed appendages, with pierced disks suspended from the ends of the rays.

N. Turbans

Long pieces of cloth that are wrapped around the head. Metal ornaments may be sewn on turbans. Found in all cultures; the metal decorations and the cloth vary from culture to culture.

O. Spoons

Utilitarian object of gold, silver, or copper.

P. Lime Spatulas

Miniature spatula: A straight handle has a slightly spoon-shaped end. The handle may have an anthropomorphic figure. Made of gold, silver, or copper.

Q. Ear Spools

Ear spools are generally made of a large cylinder which fits through the earlobe and an even larger disk or decorative sheet on one side. The disk may be decorated with repoussé, stamped, or engraved designs, or may

have inset stone or shell. May be made of gold, silver, copper, or made of two metals. Ear spools are found in all cultures. The largest measure up to 15 cm. height; typical diameter: 5 cm.–14 cm.

R. Nose Ornaments

Of varied shapes, nose ornaments can be as simple as a straight tube or as complex as a flat sheet with repoussé design. In the upper part, there are two points to attach the ornament to the septum. They may be of gold, silver, or copper or may be made of two metals.

S. Earrings

Decoration to be suspended from the earlobes.

T. Rings

Simple bands with or without designs. Some are two bands united by filigree spirals. Some have inset stones. May be of silver, gold, copper, or alloys.

U. Bracelets

Bracelets are made of sheets of metal with a straight or slightly trapezoidal shape, with stamped or repoussé designs. Some are simple, narrow bands. Found in all cultures and with varied designs. May be of gold, silver, bronze, or alloys of copper. Generally 4 cm.–14 cm. in width.

V. Necklaces

Necklaces are made of beads and/or small carved beads. May be of shell, bone, stone, gold, silver, copper, or bronze. The beads are of varied shapes. All beads have two lateral perforations to hold the cord.

W. Tweezers

Made in one piece, with two identical ends and a flexed central handle. They are of varied shapes, including triangular, trapezoidal, and ovaloid. The middle of the handle may have a hole so the tweezers can be suspended from a cord.

X. Feather Carrier

Conical objects with a pointed, hollow end, into which feathers, llama skin, or monkey tails are inserted and held in place with tar. They may be made of gold, silver, or gilded or silver-plated copper.

III. Pre-Columbian Ceramics

A. Chavín

Date: 1200–200 B.C.

Characteristics

Decoration: A grey-black color. Incised, modeled, and high and low-relief are combined to work out designs in grays and browns. The surface may also juxtapose polishing and matte finish in different design zones.

Forms: Bottles, plates, and bowls.

Size: 5 cm.–30 cm.

Identifying: Characteristic traits of Cupisnique and Chavín ceramics include: Globular body with a flat base and stirrup spout; thick neck with an obvious and everted lip. Chavín style also includes long-necked bottles, bowls with flaring walls, and highly-polished relief-decorated surfaces.

Styles: Chavín influence is seen in Cupisnique, Chongoyape, Poemape, Tembladera, Patapo, and Chilete.

B. Vicús

Date: 900 B.C.–A.D. 500.

Characteristics

Decoration: Geometric designs in white on red, made using negative technique. There are also monochrome examples.

Forms: Anthropomorphic, zoomorphic and plant-shaped vessels. Some have a double body linked by a tube or common opening.

Size: 30 cm.–40 cm. tall.

C. Virú or Gallinazo

Characteristics

Decoration: Negative technique over orange background.

Forms: Faced anthropomorphic and zoomorphic vessels, face bottles for daily use in dwellings, ''cancheros'' (type of pot without a neck and with a horn-shaped handle).

Size: Up to 15 cm. high.

Identifying: The surface is basically orange; the vessels have a truncated spout, an arched bridge (like a tube) as handle, and geometric symbols in negative technique (concentric circles, frets and wavy lines). When the vessels represent a face, the eyes are like ''coffee beans,'' applied on the surface and with a transverse cut.

D. Pucara

Date: 300 B.C.–300 A.D.

Characteristics

Decoration: Slip-painted and incised. Modeled elements include stylized felines and camelids, along with an anthropomorphic image characteristically depicted with a staff in each hand. Vessels are typically decorated in yellows, black, and white on the red background of the vessel. Designs are characteristically outlined by incision. There may be modeled decoration, such as feline heads, attached to the vessels.

Shapes: Tall bowls with annular ring bases predominate, along with vessels that depict anthropomorphic images.

Size: Bowls are up to 20 cm. in diameter and 20 cm. in height.

E. Paracas

Date: Developed around 200 B.C.

Characteristics

Vessels are typically incised, with post-fired resin painting on a black background.

Size: 10 cm.–15 cm. high.

F. Nazca

Date: A.D. 100–600.

Characteristics

Color: Typically very colorful, with a range of slips including cream, black, red, violet, orange, gray, all in a range of tones.

Slip: Background slip is generally cream or orange.

Shapes: Cups, bowls, beakers, plates, double-spout-and-bridge bottles, anthropomorphic figures, and musical instruments.

Decoration: Realistic drawings of fantastic creatures, including the ''Flying God.'' In late Nazca, bottles are broader and flatter and the designs are arrayed in broad bands. Typically have decorations of trophy heads, geometric motifs, and painted female faces.

Size: 5 cm.–20 cm.

G. Recuay

Date: A.D. 100–700.

Characteristics

Slip: Both positive and negative slip-painting is found, generally in colors of black, cream and red.

Shapes: Sculptural, especially ceremonial jars known as ''Paccha'' which have an elaborate outlet to serve a liquid.

Decoration: Usually show groups of religious or mythical personages.

Size: 20 cm.—35 cm. in height.

H. Pashash

Date: A.D. 1–600.

Characteristics

Decoration: Positive decoration in black, red, and orange on a creamy-white background. Some show negative painting.

Shapes: Anthropomorphic vessels, bottles in the form of snakes, bowls with annular base, and large vessels with lids.

Size: The anthropomorphic vessels are up to 20 cm. in height, serpent bottles are around 25 cm. wide x 10 cm. tall, and lidded vessels are more than 30 cm. in height.

Motifs: The decorations are rendered in positive or negative painting in zones that depict profile-face images of zoomorphic figures, serpents, or worms, seen from above and with trapezoidal heads.

I. Cajamarca

Date: A.D. 500–900.

Characteristics

Decoration: Pre-fired slip painting with geometric designs, including stepped triangles, circles, lines, dots, and rows of volutes. They may include stylized birds, felines, camelids, batrachians, and serpents. Spiral figures may include a step-fret motif in the base of the bowls.

Shapes: Pedestal base bowls, tripod bowls, bottles with annular ring base, goblets, spoons with modeled handles, bowls with carinated edges.

J. Moche

Date: A.D. 200–700.

Characteristics

Forms: Stirrup-spout vessels, vessels in the shape of humans, animals, or plants.

Colors: Generally red and white.

Manufacture: Often mold-made.

Size: 15 cm.–25 cm. in height.

Decoration: Wide range of images showing scenes of real life or mythical scenes depicting gods, warriors, and other images.

K. Tiahuanaco

Date: A.D. 200–700.

Characteristics

Decoration: Pre-fired slip painting on a highly polished surface. Background is generally a red-orange, with depictions of human, animal, and geometric images, generally outlined in black and white lines.

Shapes: Plates, cups, jars, beakers, open-backed incense burners on a flat base.

L. Lima

Date: A.D. 200–700.

Characteristics

Decoration: Pre-fired slip painting with interlocking fish and snake designs, geometric motifs, including zig-zags, lines, circles, and dots.

Shapes: Breast-shaped bottles, cups, plates, bowls, and cook pots.

Styles: Related to Playa Grande, Nievera, and Pachacamac styles.

M. Huari

Date: A.D. 500–1000.

Characteristics

Colors: Orange, cream, violet, white, black, and red.

Motifs: Anthropomorphic, zoomorphic, and plant shapes, both stylized and realistic. In Pachacamac style one finds vessels with a globular body and long, conical neck. In Atarco style, there is slip painting that retains Nazca motifs, especially in the full-body felines shown running.

Slip: Background slip is commonly cream, red, or black.

Styles: Related to Vinaque, Atarco, Pachacamac, Qosqopa, Robles Moqo, Conchopata, and Caquipampa styles.

Size: Most are around 25 cm. tall. Robles Moqo urns may be up to 1 m. in height.

N. Santa

Date: Derived from Huari style, around A.D. 800.

Characteristics

Decoration: Slip painted with figures and designs in black and white on a red background. There are also face-neck jars.

Shapes: Effigy vessels, face-neck jars, double-body vessels.

Sizes: 12 cm.–20 cm. tall.

Shapes: Jars have a globular body and face on the neck. The border may have black and white checkerboard. The body sometimes takes the shape of a stylized llama head. Common are white lines dotted with black. Double-body vessels generally have an anthropomorphic image on the front vessel, and a plain back vessel.

O. Chancay

Date: A.D. 1000–1300.

Characteristics

Treatment: Rubbed surface.

Slip: White or cream with black or dark brown designs.

Molds: Molds are commonly used, especially for the anthropomorphic figures called ''cuchimilcos,'' which represent naked male and female figures with short arms stretched to the sides.

Size: 3 cm.–1 m.

P. Ica-Chincha

Date: Began to be developed in A.D. 1200.

Characteristics

Decoration: Polychrome painting in black and white on red.

Designs: Geometric motifs combined with fish and birds.

Shapes: Bottles with globular bodies and tall necks and with flaring rims. Cups and pots.

Size: 5 cm.–30 cm. high.

Q. Chimú

Date: A.D. 900–1500.

Characteristics

Slip: Monochrome. Usually black or red.

Shapes: Varied shapes. Commonly made in molds. They may represent fish, birds, animals, fruit, people, and architectural forms. One sees globular bodies with a stirrup spout and a small bird or monkey at the base of the neck.

Size: Between 30 cm.–40 cm. in height.

R. Lambayeque

Date: A.D. 700–1100.

Characteristics

Color: Generally black; a few are cream with red decoration.

Shapes: Double spout and bridge vessels on a pedestal base are common. At the base of the spout one sees modeled heads and the bridge also often has modeled heads.

Size: 15 cm.–25 cm. in height.

S. Inca

Date: A.D. 1300–1500.

Characteristics

Decoration: Slip painted in black, red, white, yellow, and orange.

Designs: Geometric designs (rhomboids and triangles) and stylized bees, butterflies, and animals.

Sizes: 1 cm. to 1.5 m. in height.

IV. Pre-Columbian Lithics

A. Chipped Stone: Projectile Points

Paiján Type Points

Size: 8 cm.–18 cm.

Shape: Triangular or heart-shaped.

Color: Generally reddish, orange, or yellow. Can be made of quartz.

Leaf-Shaped Points

Size: 2.5 cm.–15 cm.

Shape: Leaf-shaped. Can be ovaloid or lanceolate.

Color: Generally bright reds, yellows, ochers, quartz crystals, milky whites, greens and blacks.

Paracas Type Points

Size: .3 cm.–25 cm.

Shape: Triangular and lanceolate. Show marks of pressure-flaking. Often they are broken.

Color: Generally black.

Chivateros-Type Blanks

Size: .8 cm.–18 cm.

Shape: Concave indentations on the surface from working.

Color: Greens, reds, and yellows.

B. Polished Stone

Bowl—Vessels of dark colored-stone, sometimes streaked. They have a highly polished, very smooth surface. Some show external carved decoration. Diameters range from 12 cm–55 cm.

Cups—Also vessels of dark-colored stone. Generally have flaring sides. Typical of the Late Horizon. They are highly polished and may have external carved designs or may be in the shape of heads. 18 cm.–28 cm. in height.

Conopas—Small vessels in the form of camelids with a hollow opening on the back. They are black to greenish-black and highly polished. .8 cm.–16 cm. in length.

Idols—Small anthropomorphic figurines, frequently found in Middle Horizon contexts. The almond-shaped eyes with tear-bands are characteristic of the style. Larger examples tend to be of lighter-colored stone while the smaller ones are of dark stones. 12 cm.–28 cm. in height.

Mace head—Varying shapes, most commonly are doughnut-shaped or star-shaped heads, generally associated with Late Intermediate Period and Inca cultures. Commonly black, gray, or white, .8 cm.–20 cm. in diameter.

Metal-working hammer—Elongated shapes, frequently with one flat surface; highly polished. Generally of dark-colored stone, 3 cm.–12 cm.

C. Carved Material

Tenon head—These heads have an anthropomorphic face, prominent lips, and enormous noses. Some, especially those carved of diorite, have snake-like traits. The carved surface is highly polished.

Tablets—with high-relief design. The upper surface has a patina. They range from 20 cm. to more than 1 m. in length.

V. Pre-Columbian Perishable Remains

A. Wood

Keros (Beakers)—The most common form is a bell-shaped beaker with a flat base, though some have a pedestal like a goblet. Decoration varies with the period:

Pre-Inca: Very rare, they have straight sides and incised or high-relief decoration. Some have inset shells.

Inca: Generally they are incised with geometric designs on the entire exterior.

Colonial Inca: Lacquer painted on the exterior to depict scenes of daily life, nature, and war.

Staffs—Objects of ritual or ceremonial use made of a single piece of wood. They can be distinguished on the basis of two or three of the following traits:

On the lower third, the staff may have a metal decoration.

The body itself is cylindrical and of variable length.

The upper third may have decorations, including inset shell, stone, or metal. Some staffs function as rattles, and in these cases, the rattle is in the upper part.

Carvings—Worked blocks of wood, such as wooden columns (orcones) to support the roofs of houses: Chincha, Chimú, and Chancay cultures. Individuals may be depicted standing or seated on a pedestal. In the upper part there is a notch to support the beams, which generally has a face, sometimes painted, at the base of the notch. Their length varies, but they are generally at least a meter or more.

Box—Small lidded boxes, carved of two pieces of wood. Generally the outer surface of box and lid are carved in relief. Chimú-Inca cultures. They measure approximately 20 cm. x 10 cm.

Mirror—Wooden supports for a reflective surface of polished anthracite or pyrite. In some cases the upper part of backs of mirrors are worked in relief or have inset of shell. Moche culture.

Paddle and rudder—Large carvings made of a single piece of wood. Paddles have three parts: The blade and the handle (sometimes decorated), and an upper decorated part, which can have metal plaques or decorative painting. Rudders have two parts: The blade and a handle which may be carved in relief. Chincha culture. Paddles can be 2.30 m. in length and rudders are up to 1.4 m.

Utensils—Bowls and spoons made of wood decorated with zoomorphic or anthropomorphic motifs.

Musical instruments—Trumpets and whistles. Trumpets can be up to 1.2 m. long and are generally decorated on the upper third of the instrument. Whistles vary a great deal from the undecorated to those decorated with human forms. Moche, Huari, and Inca cultures.

B. Bone

Worked bone—Most interesting are Chavín pieces with incised decorations. The bones are generally the long bones of mammals. They vary from 10 cm.–25 cm. in length.

Balance weights—Flat rectangles of bone about 10 cm. in length. Chincha culture.

Musical instruments—Quenas (flutes) and antaras (panpipes) in various shapes. Paracas, Chincha, and Ancon cultures.

C. Gourds

Vessels—Bowls, pots, and holders for lime (for coca chewing). Most interesting are those which are carved or pyroengraved. Produced from the Preceramic onward.

Musical instruments—Ocarinas, small flutes, and whistles. Inca examples may have incised decoration, or decoration with cords and feathers.

D. Cane

Musical instruments—Flutes (especially in Chancay culture), panpipes, and whistles. Flutes are often pyroengraved. Panpipes can have one or two tiers of pipes, which may be lashed together with colored thread. Nazca culture.

E. Straw

Weaving baskets—Basketry over a cane armature, in the shape of a lidded box. Sometimes the basketry is made of several colors of fiber to work out geometric designs. Some still hold their original contents: Needles, spindle whorls, spindles, balls of thread, loose thread, etc. Chancay culture.

F. Shell

Musical instruments—Marine shells (*Strombus galeatus, Malea ringens,* etc.), some, especially those from the Formative Period, with incised decoration.

Jewelry—Small beads and charms worked of shell, chiefly *Spondylus princeps,* used mainly in necklaces and pectorals. Moche, Chimú, and Inca cultures.

VI. Pre-Columbian Human Remains

The human remains included in this listing demonstrate modifications of the remains due to ritualistic practices or other intentional treatment of the deceased.

A. Mummies

Peruvian mummies were formed by natural mummification due to the conditions of burial; they have generally not been eviscerated. Usually found in flexed position, with extremities tied together, resulting in a fetal position. In many cases the cords used to tie the body in this position are preserved.

B. Deformed Skulls

Many ancient Peruvian cultures practiced cranial deformation. Such skulls are easily recognized by their unnatural shapes.

C. Skulls Displaying Trepanation

Trepanation is an operation performed on a skull; the resulting cuts, easily visible on a bare skull, take various forms. Cuts may be less easily distinguished if skin and hair are present:

Principal Techniques

a. Straight cuts: These cuts are pointed at the ends and wider in the

center. Openings made this way have a polygonal shape.

b. Cylindrical-conical openings: The openings form a discontinuous line. The resulting opening has a serrated edge.

c. Circular: Generally made by a file. The resulting hole is round or elliptical, with beveled or straight edges. This is the most common form of trepanation.

D. Pre-Columbian Trophy Heads

Trophy heads can be identified by the hole made in the forehead to accommodate a carrying cord. When the skin is intact, the eyes and the mouth are held shut with cactus thorns. Finally, the occiput is missing since that is how the brain was removed when the trophy head was prepared.

E. Shrunken Trophy Heads From the Amazon

These heads have had the bones removed and then have been cured to shrink them. They are recognizable because they conserve all the traits of the original skin, including hair and hair follicles. The mouth is sewn shut and generally there are carrying cords attached. There may be an obvious seam to repair the cuts made when the skin was removed from the skull. Finally, the skin is thick (up to 2.5 mm.) and has a dark color. Trophy heads vary between 9.5 cm. and 15.5 cm. in height.

F. Tattoos

Tattooing in pre-Columbian Peru was practiced mainly on the wrists. Most common are geometric designs, including bands of triangles and rhomboids of a bluish color.

G. False Shrunken Heads

False shrunken heads can be recognized because they are made of the skin of a mammal, with some of the fur left where the human hair would be. The skin is first smoked, then pressed into a mold to give it a face-like shape. The eyes, nose, mouth and ears are simple bumps without real holes. Further, the skin is very thin and yellowish in color. Often the ''heads'' have eyebrows and moustaches formed by leaving some of the animal hair, but these features are grotesque because they appear to grow upside down.

VII. Ethnological Objects

A. Objects directly related to the pre-Columbian past, whose pre-Columbian design and function are maintained with some Colonial modifications or additions in technique and/or iconography.

Colonial Indigenous Textiles

Predominant materials: Cotton and wool.

Description: These textiles are characterized by the cut of the cloth, with the four borders or selvages finished on the same loom. Clothes are untailored and made from smaller pieces of convenient sizes which were then sewn together. Colonial indigenous textiles of the period are differentiated from pre-Columbian textiles primarily by their decoration: Western motifs such as lions, heraldic emblems, and Spanish personages are incorporated into the designs; sometimes fibers distinct from cotton or wool (threads of silver, gold, and silk) are woven into the cloth; and the colors tend to be more vivid because the fabrics were made more recently. Another important characteristic of the clothing is the presence of tocapus or horizontal bands of small squares with anthropomorphic, zoomorphic, phytomorphic and geometric ideographs and designs. Characteristic textiles include:

Panels: Rectangular or square pieces of various sizes.

Anacus: Untailored woman's dress consisting of two or three long horizontal pieces of cloth sewn together that was wound around the body and held in place with ''tupus'' (pins).

Unku/Tunic: Man's shirt with an opening for the head. Sometimes has sleeves.

Lliclla/Shoulder Mantle: Rectangular piece of cloth that women put over their shoulders and held in place by a tupu; standard size: 40″ x 45″. Generally has a tripartite design based on contrasting panels that alternate bands with decoration and bands with solid colors.

Chumpi/Belt: A woven belt, generally using tapestry technique.

Tupus

Material: Silver, gilded silver, copper, bronze. May have inlays of precious or semi-precious stones.

Description: Tupus were used to hold in place lliclas and ancus. They are pins with a round or elliptical head, with piercing, repoussé, and incised decorations. The difference between pre-Columbian and ethnological tupus can be seen in the introduction of Western designs, for example bi-frontal eagles and heraldic motifs.

Keros

Material: Wood.

Description: The most common form is a beaker like cup with truncated base. After the Conquest, keros started to be decorated with pictorial scenes. The most frequently used techniques include incision, inlaying pigments in wood, and painting. Ideography includes geometric designs, figures under a rainbow (an Inca symbol), ceremonial rituals, scenes of war, and agricultural scenes. Sometimes are in the form of human or zoomorphic heads.

Cochas or Cocchas

Material: Ceramic.

Description: Ceremonial vessels with two or more concentric interior compartments which are linked. Often decorated with volutes representing reptiles.

Aribalos

Material: Ceramic.

Description: The post-Conquest aribalos have a flat base, often using a glaze for finishing, and the decoration includes Inca and Hispanic motifs.

Pacchas

Material: Stone, ceramic.

Description: One of the characteristics of pacchas is that they have a drain which is used to sprinkle an offering on the ground. They have pictorial or sculpted relief decorations symbolizing the benefits hoped for from the ritual.

B. Objects that were used for religious evangelism among indigenous peoples.

In Colonial paintings and sculptures Western religious themes were reinterpreted by indigenous and mestizo artists who added their own images and other characteristics to create a distinct iconography.

Specific types of objects used for religious evangelism during the Colonial period include the following:

Sculpture

Types of statues include:

A three-dimensional sculpted image: In the Peruvian Colonial period these were made of maguey (a soft wood) and occasionally of cedar or walnut.

Images made of a dough composed of sawdust, glue and plaster: After they are sculpted, figures are dressed with cloth dipped in plaster.

Images to be dressed: These are wooden frames resembling mannequins, with only the head and arms sculpted in wood (cedar or maguey). The images are dressed with embroidered clothes and jewelry. Frequently other elements were added, such as teeth and false eyelashes, wigs of real hair, eyes of colored glass, and palates made of glass.

Paintings

Catholic priests provided indigenous and mestizo artists with canvases and reproductions of Western works of art, which the artists then ''interpreted'' with their own images and other indigenous characteristics. These may include symbolically associating Christian religious figures with

indigenous divinities, or rendering the figures with Andean facial characteristics or in traditional Andean costume. In addition, each church, convent, monastery, and town venerated an effigy of its patron or tutelar saint, some of them native to Peru.

Retables

Retables (*retablos*) are architectonic structures made of stone, wood, or other material that are placed behind the altar and include attached paintings, sculptures or other religious objects.

Liturgical Objects

Objects Used for Mass Ritual: Chalices, cibaries, candelabras, vials for christening or consecrated oil, reliquaries, vessels for wine and water, incense burners, patens, monstrances, pelicans and crucifixes. Made out of silver, gold or gilded silver, often inlaid with pearls or precious stones. Techniques: Casting, engraving, piercing, repoussé, filigree.

Fixtures for sculpted images: Areoles, crowns, scepters, halo, halos in the form of rays, and books carried by religious scholars and founders of religious orders.

Ecclesiastical vestments: Some ecclesiastical vestments were commissioned by indigenous individuals or communities for the celebrations of their patron saint and thus are part of the religious legacy of a particular town. In such cases, the vestment has the name of the donor and of the town or church as well as the date.

Votive Offerings: These are representations of miracles or favors received from a particular saint. They can be made of different materials, usually metal or wood, and come in a variety of forms according to the type of favor received, usually representing parts of the human body in reference to the organ healed or agricultural products in recognition of a good harvest or increase in a herd.

C. Colonial Manuscripts and Documents

Predominant materials: Paper, parchment, vellum

Description: Original handwritten texts or printed texts of limited circulation dating to the Colonial period (AD 1532–1821). These include but are not limited to notary documents (wills, bill of sales, contracts), ecclesiastical materials, and documents of the city councils, Governorate of New Castile, the Governorate of New Toledo, the Vice Royalty of Peru, the Real Audiencia and Chancery of Lima, or the Council of the Indies. These can include books, single folios, or collections of related documents bound with string. Documents may contain a seal or ink stamp denoting a public or ecclesiastical institution. Because many of these documents are of institutional or official nature, they may have multiple signatures, denoting scribes, witnesses, and other authorities. Documents are generally written in Spanish, but may be composed in an indigenous language such as Quechua or Aymara.

The restrictions on the importation of these archaeological and ethnological materials from Peru are to continue in effect through June 9, 2022. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Peru by removing the words ''T.D. 97–50 extended by CBP Dec. 12–11'' and adding in their place ''CBP Dec. 17–03'' in the column headed ''Decision No.''.

Kevin K. McAleenan,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: June 2, 2017.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2017–11841 Filed 6–6–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. FDA–2017–N–0011]

Humanitarian Use Devices; 21st Century Cures Act; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending regulations to reflect changes recently enacted into law by the 21st Century Cures Act. Specifically, certain requirements related to humanitarian device exemptions (HDEs) and institutional review boards (IRBs) for devices have changed. This action is being taken to align the regulations with the Federal Food, Drug, and Cosmetic Act (the FD&C Act) as amended.

DATES: This rule is effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Ian Ostermiller, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5515, Silver Spring, MD 20993–0002, 301 796–5678.

SUPPLEMENTARY INFORMATION: On December 13, 2016, the 21st Century Cures Act (Pub. L. 114–255) was signed into law, amending certain provisions of the FD&C Act. FDA is updating regulations to reflect some of those

changes that are now in effect. Specifically, section 3052 of the 21st Century Cures Act amended section 520(m) of the FD&C Act to allow for HDE approval for devices that, among other things, treat or diagnose a disease or condition that affects ''not more than 8,000'' individuals in the United States; this threshold had been ''fewer than 4,000'' individuals in the United States (amending 21 U.S.C. 360j(m), *passim*). This final rule amends part 814 (21 CFR part 814) in several places to accurately reflect the threshold recently enacted into law.

In addition, section 3056 of the 21st Century Cures Act amended section 520 of the FD&C Act to remove the requirement for institutional review committees, *i.e.,* IRBs, for devices to be ''local'', (amending 21 U.S.C. 360j, *passim*). This final rule amends 21 CFR 814.124(a), ''IRB approval'', to remove the term ''local'' and related language in order to accurately reflect the requirements recently enacted into law.

FDA finds good cause for issuing this amendment as a final rule without notice and comment because this amendment only updates the implementing regulation to restate the statute in light of amendments recently enacted into law (see 5 U.S.C. 553(b)(B), relating to notice and comment procedures): ''[W]hen regulations merely restate the statute they implement, notice-and-comment procedures are unnecessary''. *Gray Panthers Advocacy Committee* v. *Sullivan,* 936 F.2d 1284, 1291 (D.C. Cir. 1991); see also *Komjathy* v. *Nat. Trans. Safety Bd.,* 832 F.2d 1294, 1296 (D.C. Cir. 1987) (when a rule ''does no more than repeat, virtually verbatim, the statutory grant of authority'', notice-and-comment procedures are not required). Therefore, we are issuing these amendments as a final rule, and publication of this document constitutes final action on this change under the Administrative Procedure Act (APA) (5 U.S.C. 553).

In addition, FDA finds good cause for these amendments to become effective on the date of publication of this action. The APA allows an effective date less than 30 days after publication as ''provided by the agency for good cause found and published with the rule'' (5 U.S.C. 553(d)(3)). A delayed effective date is unnecessary in this case because the new requirements are already effective as a matter of law. Furthermore, this rule does not establish additional regulatory obligations or impose additional burden on regulated entities. As a result, affected parties do not need time to prepare before the rule takes effect. Therefore, FDA finds good cause for these amendments to become effective on the date of publication of this action.

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

§ 814.3 [Amended]

■ 2. Amend § 814.3(n) by removing the words ''fewer than 4,000'' and adding in their place the words ''not more than 8,000''.

§ 814.100 [Amended]

■ 3. Amend § 814.100(b) introductory text by removing the words ''fewer than 4,000'' and adding in their place the words ''not more than 8,000''.

§ 814.102 [Amended]

■ 4. Amend § 814.102 as follows:

■ a. In paragraph (a)(5), remove the words ''fewer than 4,000'' in both occurrences and add in their places the words ''not more than 8,000'' for both occurrences;

■ b. In paragraph (b)(3)(i), remove the words ''fewer than 4,000'' and add in their place the words ''not more than 8,000''; and

■ c. In paragraph (b)(3)(ii), remove the words ''4,000 or more'' and add in their place the words ''more than 8,000''.

■ 5. In § 814.124, revise paragraph (a) to read as follows:

§ 814.124 Institutional Review Board requirements.

(a) *IRB approval.* The HDE holder is responsible for ensuring that a HUD approved under this subpart is administered only in facilities having oversight by an Institutional Review Board (IRB) constituted and acting pursuant to part 56 of this chapter, including continuing review of use of the device. In addition, a HUD may be administered only if such use has been approved by an IRB. If, however, a physician in an emergency situation determines that approval from an IRB cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be administered without prior approval by an IRB. In such an emergency situation, the physician shall, within 5 days after the use of the device, provide written notification to the chairman of the IRB of such use. Such written notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.

* * * * *

§ 814.126 [Amended]

■ 6. Amend § 814.126(b)(1)(iii) by removing the number ''4,000'' and adding in its place the number ''8,000''.

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11816 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–413]

Schedules of Controlled Substances: Placement of Acetyl Fentanyl Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: With the issuance of this final order, the Administrator of the Drug Enforcement Administration will maintain the placement of the substance acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide), including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, in schedule I of the Controlled Substances Act. This scheduling action is pursuant to the Controlled Substances Act and is required in order for the United States to discharge its obligations under the Single Convention on Narcotic Drugs, 1961. This action continues to impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research or conduct instructional activities with, or possess), or propose to handle, acetyl fentanyl.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Diversion Control

Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

Section 201(d)(1) of the Controlled Substances Act (CSA) (21 U.S.C. 811(d)(1)) states that, if control of a substance is required ''by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by [section 201(a) (21 U.S.C. 811 (a))] or section [202(b) (21 U.S.C. 812(b)) of the Act] and without regard to the procedures prescribed by [section 201(a) and (b) (21 U.S.C. 811(a) and (b))].'' If a substance is added to one of the schedules of the Single Convention on Narcotic Drugs, 1961, then, in accordance with article 3, paragraph 7 of the Convention, as a signatory Member State, the United States is obligated to control the substance under its national drug control legislation, the CSA. The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

On May 17, 2016, the Secretary-General of the United Nations advised the Secretary of State of the United States, that during the 59th session of the Commission on Narcotic Drugs, acetyl fentanyl was added to schedule I of the Single Convention on Narcotic Drugs, 1961. This letter was prompted by a decision at the 59th session of the Commission on Narcotic Drugs in March 2016 to schedule acetyl fentanyl under schedule I of the Single Convention on Narcotic Drugs. As a signatory Member State to the Single Convention on Narcotic Drugs, the United States is obligated to control acetyl fentanyl under its national drug control legislation, the CSA, in the schedule deemed most appropriate to carry out its international obligations. 21 U.S.C. 811(d)(1).

Acetyl Fentanyl

On July 17, 2015, acetyl fentanyl was temporarily placed in schedule I of the CSA in order to avoid an imminent hazard to the public safety (80 FR 42381). Acetyl fentanyl is a potent opioid analgesic and has no accepted medical use in the United States. Since 2013, both law enforcement (DEA's NFLIS and STARLiMS databases) and public health reports demonstrate the unregulated use and distribution of this substance. Law enforcement reports indicate that acetyl fentanyl is available on the illicit market as a powder or in tablet form which mimic pharmaceutical opiate products. In powder form, the identity of the substance may go unknown to the end user as it may be marketed as heroin or mixed with heroin. Recent reports indicate that acetyl fentanyl is available over the Internet.

Acetyl fentanyl exhibits a typical morphine-like profile in animals. Data from the scientific literature show that the analgesic potency of acetyl fentanyl is up to 15.7 times greater than that of morphine in mice as evaluated using an acetic acid writhing method. Since 2013, adverse effects due to acetyl fentanyl toxicity have been reported in humans. Similar to other opioids (*i.e.* heroin, oxycodone, hydrocodone, fentanyl, etc.), acetyl fentanyl induces respiratory depression which may lead to death in an overdose event. DEA is currently aware of at least 57 confirmed fatalities associated with acetyl fentanyl misuse and/or abuse in the United States. The extent of abuse and mortality associated with acetyl fentanyl is likely to be underestimated since it is not included in most drug screens. In addition, the identity of fentanyl and acetyl fentanyl cannot be distinguished by commonly used drug screens including enzyme-linked immunosorbent assay (ELISA). Further confirmatory testing (*i.e.* mass spectrometry) is required to identify acetyl fentanyl.

The DEA is not aware of any claims or any medical or scientific literature suggesting that acetyl fentanyl has a currently accepted medical use in treatment in the United States. In addition, HHS advised the DEA, by letter dated April 29, 2015, that there are no approved new drug applications or investigational new drug applications for acetyl fentanyl.

By letter, dated January 11, 2016, the DEA requested that HHS conduct a scientific and medical evaluation of the substance's medical utility and a scheduling recommendation for acetyl fentanyl. Regardless of this request and any potential response from HHS, the DEA is not required under 21 U.S.C. 811(d)(1) to make any findings required by 21 U.S.C. 811(a) or 812(b), and is not required to follow the procedures prescribed by 21 U.S.C. 811(a) and (b). Therefore, consistent with the framework of 21 U.S.C. 811(d), DEA concludes that acetyl fentanyl has no currently accepted medical use in treatment in the United States and is most appropriately placed (as it has been since July 2015) in schedule I of the CSA.

Conclusion

In order to meet the obligations of the Single Convention on Narcotic Drugs, 1961 and because acetyl fentanyl has no currently accepted medical use in treatment in the United States, the Administrator of the Drug Enforcement Administration has determined that this substance should remain in schedule I of the Controlled Substances Act.

Requirements for Handling

Acetyl fentanyl has been controlled as a schedule I controlled substance since July 17, 2015. With publication of this final order, acetyl fentanyl remains subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importation, exportation, engagement in research, and conduct of instructional activities with, and possession of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, imports, exports, engages in research or conducts instructional activities with, or possesses), or who desires to handle, acetyl fentanyl must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312.

2. *Disposal of stocks.* Acetyl fentanyl must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

3. *Security.* Acetyl fentanyl is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of acetyl fentanyl must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302.

5. *Quota.* A quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 is required in order to manufacture acetyl fentanyl.

6. *Inventory.* Every DEA registrant who possesses any quantity of acetyl fentanyl must keep an inventory of all stocks of this substance on hand pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. *Records and Reports.* Every DEA registrant must maintain records and submit reports with respect to acetyl fentanyl pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute acetyl fentanyl must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305.

9. *Importation and Exportation.* All importation and exportation of acetyl fentanyl must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving acetyl fentanyl not authorized by, or in violation of the CSA, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

The CSA provides for an expedited scheduling action where control is required by the United States obligations under international treaties, conventions, or protocols. 21 U.S.C. 811(d)(1). If control is required pursuant to such international treaty, convention, or protocol, the Attorney General must issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings or procedures otherwise required for scheduling actions. *Id.*

To the extent that 21 U.S.C. 811(d)(1) directs that if control is required by the United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, scheduling actions shall be issued by order (as compared to scheduling pursuant to 21 U.S.C. 811(a) by rule), the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this scheduling action. In the alternative, even if this action does constitute ''rule making'' under 5 U.S.C. 551(5), this action is exempt from the notice and comment requirements of 5 U.S.C. 553 pursuant to 21 U.S.C. 553(a)(1) as an action involving a foreign affairs function of the United States given that this action is being done in accordance with 21 U.S.C. 811(d)(1)'s requirement that such action be taken to comply with the United States obligations under the specified international agreements.

Executive Order 12866

This action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This action does not have federalism implications warranting the application of Executive Order 13132. This action does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 13175

This action does not have tribal implications warranting the application of Executive Order 13175. The action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or any other law. As explained above, the CSA exempts this final order from notice and comment. Consequently, the RFA does not apply to this action.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. 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.

Congressional Review Act

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). However, the DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.11 by:

■ i. Redesignating paragraphs (b)(3) through (56) as (b)(4) through (57) and adding a new paragraph (b)(3); and

■ ii. Removing paragraph (h)(4), redesignating paragraphs (h)(5) through (15) as (h)(4) through (14), and adding reserved paragraph (h)(15).

The addition reads as follows:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(3) Acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide)—9821

* * * * *

Dated: May 30, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11795 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0399; FRL–9963–25–Region 9]

Air Plan Approval; Nevada, Lake Tahoe; Second 10-Year Carbon Monoxide Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State of Nevada's (''State'') April 3, 2012 state implementation plan (SIP) submission and the State's August 26, 2016 supplement to their 2012 submittal. The State submitted these two SIP revisions for the Lake Tahoe, Nevada carbon monoxide (CO) area to address the Clean Air Act (CAA) requirement to submit by the eighth year of the first maintenance plan a second 10-year maintenance plan.

DATES: This final rule is effective on July 7, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R09–OAR–2015–0399. All

documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Kelly, EPA Region IX, (415) 947–4151, *kelly.johnj@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 2017 (82 FR 13235), the EPA published a direct final rule (DFR) approving two SIP revisions submitted by the Nevada Division of Environmental Protection. On April 3, 2012, the State submitted to the EPA a CO maintenance plan as a SIP revision. This 2012 maintenance plan was intended to meet the CAA requirement (*see* CAA section 175A(b)) to submit a second maintenance plan. The CAA requires that, in the eighth year of an area's first 10-year maintenance plan, a second maintenance plan be submitted covering an additional ten years beyond the first 10-year period. Subsequently, on August 26, 2016, the State submitted a supplement to their 2012 submittal.

In the March 10, 2017 DFR, the EPA also approved a surrogate monitoring method for the State to monitor ambient levels of CO in the area. This surrogate monitoring method was described in both the 2012 submittal and 2016 supplement, with the 2016 supplement containing the State's final intended method.

In the March 10, 2017 DFR, the EPA stated that if adverse comments were received by April 10, 2017, the EPA would publish a timely withdrawal and address the comments in a subsequent final rule based on the notice of proposed rulemaking (NPR), also published on March 10, 2017 (82 FR 13269).

In this instance, the EPA received an adverse comment on the alternative monitoring strategy and attempted to withdraw the DFR prior to the effective date of May 9, 2017. However, the EPA inadvertently did not withdraw the DFR prior to that date and the rule prematurely became effective on May 9, 2017, revising the State's SIP to include the 2012 submittal and 2016 supplement on that date.

In today's final rule, the EPA is responding to the comment submitted on the EPA's proposed approval of revisions to the State's SIP, is approving the 2012 SIP submittal and 2016 supplement into the SIP, and is amending the effective date of the regulations' inclusion in the SIP to correct our failure to withdraw the DFR (after the EPA received an adverse public comment) prior to the May 9, 2017 effective date of the DFR.

II. Summary of SIP Revision and the EPA's Analysis

As described in the DFR, the State's 2012 submittal was a limited maintenance plan (LMP). A LMP is appropriate for CO areas that are below 85 percent of the 8-hour CO national ambient air quality standards (NAAQS). The following are the key elements of a LMP for CO: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, contingency plan, and conformity determinations.[1]

The 2012 plan contains the following sections to address these elements: (1) An introductory section containing a general discussion of plan approvals for the area and its redesignation to attainment; (2) a maintenance plan section including subsections on monitoring data for the area, air quality trends and background on the State's intention to discontinue monitoring CO at the only remaining gaseous CO ambient monitor in the Lake Tahoe basin located at Harvey's Resort and Hotel in Stateline, Nevada (hereinafter, the ''Harvey's monitor''); (3) a section titled ''Verification of Continued Attainment'' that addresses population change, traffic volumes, meteorology and the State's surrogate monitoring method; (4) contingency measures for the area; and (5) transportation conformity requirements.

The 2016 supplement revises several sections of the 2012 plan and contains an emissions inventory. The DFR describes our evaluation of the 2012 plan and 2016 supplement as they pertain to each of the required LMP elements.[2] Although we approved the State's surrogate monitoring method in the DFR, we took no action on the State's monitor shutdown request and anticipate acting on the request in a separate action after we review the State's annual network plan and finalize this action.

As described in the DFR, this action incorporates the 2012 plan, as amended by the 2016 supplement, and specific portions of the 2016 supplement itself, into the federally enforceable SIP. Together, these two submittals meet the applicable CAA requirements, and the EPA has determined they are sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period through 2024.

III. Public Comment and the EPA's Response

The EPA received an adverse comment from an anonymous commenter (''commenter'') on March 14, 2017.[3]

Comment Summary: The commenter noted their support for the EPA's action, stating that it would have a positive effect on the environment and would benefit the public. However, the commenter went on to comment adversely on the EPA's approval of the State's surrogate monitoring method, because monitoring methods are important to safeguard against a possible return of high levels of CO occurring in the region again, and the plan the EPA was approving did not offer any scenarios for reinstating monitoring.

Response: The EPA acknowledges the commenter's support. However, we disagree with some of the assertions and conclusions in the comment. First, the text the commenter quoted from our action was taken from the Code of Federal Regulations (CFR). The text the commenter quoted was that monitoring may be discontinued if the monitor in question has not measured violations of the applicable NAAQS in the previous five years. This text is not something that the EPA was proposing to approve in our action, but rather is text from the existing CFR (40 CFR part 58), that, in a general sense, describes the circumstances that the EPA evaluates in determining whether to allow discontinuation of a monitor. We are not acting on a general policy regarding the circumstances under which ambient monitoring may be discontinued, nor are we acting on a specific instance of a monitor's discontinuation. Rather, we said in the DFR that we are not taking action on the State's request to shut down the Harvey's monitor, and that the EPA would respond to the State's

[1] *See* DFR footnote 1 for a further discussion of LMP requirements (82 FR 13235, March 10, 2017).

[2] In the DFR we also noted that for this area, the initial maintenance period extended through 2014 and that the second 10-year maintenance period therefore extends through 2024.

[3] We note that, although we did receive another comment (regarding ''chemtrails''), we believe the comment is immaterial to the purpose of this action, and we are not addressing the comment in this action.

request in a separate action. We are instead approving a surrogate monitoring method for the State to use in the area.

In addition, we believe the commenter is factually incorrect in stating that nothing is offered to reinstate ambient CO monitors ''if CO were ever to plague the region again.'' To the contrary, the EPA explained in the DFR the circumstances under which ambient monitoring would be re-started. The surrogate monitoring method is a method of monitoring that relies on indirect indicators (traffic counts) to be monitored during the entire second maintenance period, and that have in fact already commenced. The EPA has already received several years' worth of traffic count reports from the State. The surrogate monitoring method using traffic counts is an ongoing effort of the State, performed at two locations in the area. Further, if the traffic counts rise above trigger levels, the State will re-start ambient monitoring. Lastly, once ambient monitoring is triggered, specific stringent conditions must be met to discontinue ambient CO monitoring. This will be the case even if the EPA, in a separate future action, approves the State's 2012 request to discontinue ambient CO monitoring. That is, even if the EPA approves the shutdown of the Harvey's ambient CO monitor per the State's 2012 request, a triggered re-start of the monitor (''triggered monitoring'') would set in motion specific requirements before triggered monitoring could be discontinued. Regardless of the status of ambient CO monitoring, the State's traffic counts at two locations remain in place and are required by today's action to be continued throughout the maintenance period, through the end of 2024. The commenter did not provide any data or rationale for why monitoring methods should be addressed further.

IV. Final Action

The EPA is approving revisions to the Nevada SIP. The revisions incorporate the 2012 maintenance plan and 2016 supplement. The EPA is also amending the effective date of the inclusion of these revisions to the State's SIP because the revisions were added to the SIP prematurely on May 9, 2017, when the EPA did not withdraw its DFR after receiving a comment on our approval of the State's two SIP submittals. This rule responds to the comment received, finalizes our approval and corrects the effective date for inclusion of the State's two submittals into the SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, that includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 7, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the revisions to the State of Nevada's SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 23, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart DD—Nevada

■ 2. Section 52.1470, paragraph (e) is amended by adding, under the table heading ''Air Quality Implementation Plan for the State of Nevada,'' two entries ''2012 Revision to the Nevada State Implementation Plan for Carbon Monoxide, April 2012'' and ''2016 Supplement to Nevada's 2nd 10-Year CO Limited Maintenance Plan at Lake Tahoe, August 26, 2016'' after the entry ''Addendum to the October 27, 2003 letter of transmittal of the redesignation request and maintenance plan,'' to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
AIR QUALITY IMPLEMENTATION PLAN FOR THE STATE OF NEVADA [1]				
*	*	*	*	*
2012 Revision to the Nevada State Implementation Plan for Carbon Monoxide, April 2012.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	4/3/2012	[INSERT **Federal Register** CITATION] (6/7/2017).	Adopted on 4/3/2012. Approval excludes sections 3.2.4 and 4. With 2016 supplement, fulfills requirement for second ten-year maintenance plan.
2016 Supplement to Nevada's 2nd 10-Year CO Limited Maintenance Plan at Lake Tahoe, August 26, 2016.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	8/26/2016	[INSERT **Federal Register** CITATION] (6/7/2017).	Adopted on 8/26/2016. Approval includes revised sections 3.2.4 and 4 (alternative CO monitoring strategy and contingency plan), 2011 emissions inventory and 2024 projected emissions inventory (Attachment A), evidence of public participation (Attachment B) and revised table of contents for 2012 submittal (Attachment F). Excludes Attachments C, D and E.
*	*	*	*	*

[1] The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

[FR Doc. 2017–11699 Filed 6–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2016–0631; FRL–9963–54–OAR]

Approval of Tennessee's Request To Relax the Federal Reid Vapor Pressure Gasoline Volatility Standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties; and Minor Technical Corrections for Federal Reid Vapor Pressure Gasoline Volatility Standards in Other Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a request from the state of Tennessee for EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties (the Middle Tennessee Area). Specifically, EPA is approving amendments to the regulations to allow the gasoline RVP standard for the five counties to rise from 7.8 pounds per square inch (psi) to 9.0 psi. EPA has determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA). Finally, EPA is making several minor technical corrections to address clerical errors made in prior rulemakings that relaxed the gasoline RVP standard in other areas.

DATES: This final rule is effective on June 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0631. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David Dickinson, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343–9256; email address: *dickinson.david@epa.gov,* or Rudolph Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4574; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

The contents of this preamble are listed in the following outline:

I. General Information
II. Action Being Taken
III. History of the Gasoline Volatility Requirement

IV. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas
V. Tennessee's Request to Relax the Federal Gasoline RVP Requirement for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties
VI. Response to Comments
VII. Final Action
VIII. Technical Corrections
IX. Statutory and Executive Order Reviews
X. Legal Authority and Statutory Provisions

Effective date. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under CAA section 307(d)(1) which states: ''The provisions of section 553 through 557 . . . of Title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies.'' Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective June 7, 2017. APA section 553(d) allows an effective date less than 30 days after publication for a rule ''that grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553(d)(1). This rule fits within that exception because it lifts a restriction on the introduction into commerce of gasoline with an RVP of greater than 7.8 psi sold in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties between June 1 and September 15 of each year. Because this action can be considered to relieve a restriction that would otherwise prevent the introduction into commerce of gasoline with an RVP of greater than 7.8 psi, EPA is making this action effective on June 7, 2017.

I. General Information

A. Does this action apply to me?

Entities potentially affected by this rule are fuel producers and distributors who do business in the Middle Tennessee Area.

Examples of potentially regulated entities	NAICS [1] codes
Petroleum refineries	324110
Gasoline Marketers and Distributors	424710 424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which EPA is aware that potentially could be affected by this rule. Other types of entities not listed on the table could also be affected by this rule. To determine whether your organization could be affected by this rule, you should carefully examine the regulations in 40 CFR 80.27. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

[1] North American Industry Classification System.

B. What is EPA's authority for taking this action?

The statutory authority for this action is granted to EPA by Sections 211(h) and 301(a) of the CAA, as amended; 42 U.S.C. 7545(h) and 7601(a).

II. Action Being Taken

This final rule approves a request from the state of Tennessee to change the summertime gasoline RVP standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from 7.8 psi to 9.0 psi by amending EPA's regulations at 40 CFR 80.27(a)(2). In a previous rulemaking, EPA approved a maintenance plan revision for the Middle Tennessee Area for the 1997 ozone national ambient air quality standard (NAAQS) and a CAA section 110(l) non-interference demonstration that relaxing the federal RVP gasoline requirement from 7.8 psi to 9.0 psi for gasoline sold from June 1 to September 15 of each year would not interfere with maintenance of the NAAQS in the Middle Tennessee Area. For more information on EPA's approval of Tennessee's maintenance plan revision for the Middle Tennessee Area and the CAA section 110(l) non-interference demonstration, please refer to the May 1, 2017 rulemaking. (82 FR 20260).

The preamble for this rulemaking is organized as follows: Section III. provides the history of the federal gasoline volatility regulation. Section IV. describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section V. provides information specific to Tennessee's request for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties. Section VI. provides a response to the comments EPA received. Section VII. presents the final action in response to Tennessee's request. Finally, Section VIII. provides an explanation of the minor technical corrections being made to 40 CFR 80.27(a)(2)(ii).

III. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOCs), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function, thereby aggravating asthma and other respiratory conditions, increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under CAA section 211(c), EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum gasoline RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established a new section 211(h) to address fuel volatility. CAA section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. CAA section 211(h) also prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with CAA section 211(h). The modified regulations

prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, effective January 13, 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to their respective volatility programs. EPA's policy for approving such changes is described below in Section IV. of this action.

The state of Tennessee has initiated this change by requesting that EPA relax the 7.8 psi gasoline RVP standard to 9.0 psi for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties, which are subject to the 7.8 gasoline RVP requirement during the summertime ozone season. Accordingly, the state of Tennessee provided a technical demonstration showing that relaxing the federal gasoline RVP requirements in the five counties from 7.8 psi to 9.0 psi would not interfere with maintenance of the NAAQS in the Middle Tennessee Area or with any other applicable CAA requirement. See Section V. of this action for information specific to Tennessee's request for the Middle Tennessee Area.

IV. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the rulemaking for EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the federal 7.8 psi RVP gasoline requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal RVP gasoline standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991 rulemaking, EPA believes that relaxation of an applicable gasoline RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, CAA section 107(d)(3) requires the state to make a showing, pursuant to CAA section 175A(a), that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent gasoline volatility standard or that the more stringent gasoline volatility standard may be necessary for the area to maintain attainment of the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the gasoline volatility standard unless the state requests a relaxation and the maintenance plan demonstrates to the satisfaction of EPA that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

V. Tennessee's Request To Relax the Federal Gasoline RVP Requirement for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties

On November 21, 2016, the state of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request to revise its CAA section 110(a)(1) maintenance plan for the 1997 ozone NAAQS for the Middle Tennessee Area. The revised maintenance plan adjusts the on-road emissions inventory and maintenance demonstration so that they account for removal of the federal requirement to sell 7.8 psi gasoline and instead sell gasoline with an RVP of 9.0 psi during the summer ozone season. As part of its request, TDEC also submitted a CAA section 110(l) non-interference demonstration that removal of the federal RVP requirement of 7.8 psi for gasoline during the summertime ozone season for the Middle Tennessee Area would not interfere with maintenance of any NAAQS, including the 1997 and 2015 ozone NAAQS. Specifically, the State provided a technical demonstration showing that relaxing the federal gasoline RVP requirement in the five counties, from 7.8 psi to 9.0 psi, would not interfere with maintenance of the ozone NAAQS or with any other applicable requirement of the CAA.

On February 24, 2017, EPA proposed to approve the revised maintenance plan and section 110(l) non-interference demonstration. The proposal provided an opportunity for the public to comment on the action. (82 FR 11517). EPA received no comments on the proposal to approve the revised maintenance plan request and the non-interference demonstration for the Middle Tennessee Area. In a May 1, 2017 final rule, EPA approved Tennessee's November 21, 2016 revised maintenance plan for the Middle Tennessee Area. (82 FR 20260). The revised CAA section 110(a)(1) maintenance plan provides for continued attainment and maintenance of the 1997 ozone NAAQS. In this final rule, EPA also approved Tennessee's non-interference demonstration for the Middle Tennessee Area.

In today's action, EPA is taking the final step in the process to approve Tennessee's request to relax the summertime ozone season gasoline RVP standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from 7.8 psi to 9.0 psi. Specifically, EPA is amending the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the five counties. This action is based on EPA's May 1, 2017 approval of Tennessee's November 21, 2016 revised maintenance plan request and the non-interference demonstration.

EPA's proposal to amend the applicable gasoline RVP standard from 7.8 psi to 9.0 psi (April 12, 2017, 82 FR 17597) was subject to public notice-and-comment. EPA received seven comments on its proposal. These comments are discussed in Section VI. below.

Finally, EPA is approving this change to 40 CFR part 80 based on a request from the State and because EPA made a final determination in its May 1, 2017 final rule (82 FR 20260) that the State made an adequate demonstration to show that removal of this federal requirement would not interfere with air quality in the Middle Tennessee Area. Further, this final action is consistent with CAA requirements. Based upon these factors, EPA is approving Tennessee's request to relax the federal RVP gasoline requirements in the Middle Tennessee Area from 7.8 psi to 9.0 psi.

VI. Response to Comments

EPA received seven comments on its April 12, 2017 proposal to relax the gasoline standard from 7.8 psi to 9.0 psi. EPA believes that all of these comments are outside the scope of today's action as discussed further below.

Comment: EPA received six comments that expressed a general concern that the relaxation of the RVP gasoline standard would result in a negative impact on air quality.

Response: These comments, which are outside the scope of today's final rule, pertain to issues that have already been addressed in the May 1, 2017 rulemaking that evaluated the State's

demonstration of potential air quality impacts of changing the summertime gasoline standard in the Middle Tennessee Area. (82 FR 20260). At proposal, EPA evaluated the impacts on air quality associated with the change in RVP requirements and determined that any such impacts will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA as required by CAA section 110(l). (82 FR 11517, 11520–11522, February 24, 2017). EPA received no adverse comments on that proposal, which was subject to a 30-day notice and comment opportunity for the public. Further, in the April 12, 2017 proposal to this action, EPA did not reopen the May 1, 2017 rulemaking for public comments.

Comment: EPA received another comment concerning the impact of the 1.0 psi RVP waiver that is provided to gasoline containing 10 percent ethanol.[2] The commenter expressed several concerns with the 1.0 psi waiver, as well as a concern with the potential impacts of relaxing the summertime gasoline standard on the ability of the area to attain the 2015 ozone NAAQS. The commenter also asked for clarification of how Tennessee calculated emissions changes resulting from increasing the RVP of gasoline sold in the Area.

Response: The commenter's general concern with the national 1.0 psi waiver for gasoline containing 10 percent ethanol are beyond the scope of this rulemaking. Moreover, CAA section 211(h)(4) specifically allows the RVP limits for fuel blends containing gasoline and 10 percent ethanol to be 1.0 psi greater than the applicable regulatory RVP limits established in accordance with CAA section 211(h)(1). In this rulemaking, EPA is merely revising the summertime RVP limit for the Middle Tennessee Area pursuant to a request from the State, which the State supported with the demonstration that the area will continue to maintain the 1997 ozone NAAQS, and that the RVP increase will not interfere with the Area's ability to attain other NAAQS including the 2015 ozone NAAQS or interfere with any other CAA requirement.

With regard to the possibility that the summertime gasoline RVP increase could jeopardize the area's ability to remain in attainment with the 2015 ozone NAAQS of 70 ppb, as previously explained, this comment is beyond the scope of this rulemaking. Further, as also previously explained, the proposal for the May 1, 2017 rulemaking contained an evaluation of the air quality impacts associated with the change in RVP requirements and determined that any such impacts will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA as required by CAA section 110(l). Thus, EPA, in a prior rulemaking, which included extensive information and data from the State, such as the projection of the design values and the effect of slight increases in emissions associated with the RVP relaxation, has concluded that the Area would continue to attain any ozone NAAQS, including the 2015 ozone NAAQS, after the RVP relaxation. (82 FR 20260, May 1, 2017). In the February 24, 2017 proposal, EPA had also provided adequate opportunity for public comments on the CAA section 110(l) non-interference demonstration as well as the extensive information that supported the demonstration. No adverse comments were received on that proposal. The proposed notice for today's action did not re-open the previous rulemaking.

Similarly, EPA believes that the comment on Tennessee's calculations of the emissions change due to the RVP relaxation is also beyond the scope of this rulemaking. As previously explained, EPA provided adequate opportunity for public comment on the previous rulemaking that approved the State's maintenance plan revision and CAA section 110(l) non-interference demonstration. (82 FR 20260, May 1, 2017). No adverse comments were received on the proposal for the May 1, 2017 rulemaking. Notwithstanding that this comment is outside of the scope of this rulemaking, Tennessee did properly quantify the emissions change attributed to the increase of the summertime RVP standard of 7.8 psi (effectively 8.8 psi with the 1.0 psi ethanol waiver) to 9.0 psi (effectively 10.0 psi with the 1.0 psi ethanol waiver). (82 FR 11517, 11520–11523, February 24, 2017). As noted above, the proposed notice for today's action did not re-open the previous rulemaking. Based on the evidence in the record, EPA is granting the State's request to relax the summertime RVP standard from 7.8 psi to 9.0 psi.

VII. Final Action

EPA is taking final action to approve the request from Tennessee for EPA to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties. Specifically, this action amends the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the Middle Tennessee Area.

VIII. Technical Corrections

We are taking this opportunity to make several minor technical corrections to 40 CFR 80.27(a)(2)(ii) in order to accurately reflect the regulatory changes to this subparagraph that occurred as the result of prior rulemakings. These prior rulemakings concerned the relaxation of the gasoline RVP standard in other areas of the country. The changes are specified in the following paragraph. These corrections have no effect on the stringency or applicability of the regulations.[3]

The amendments are as follows:

1. In 40 CFR 80.27(a)(2)(ii), the table is amended by:

a. Adding footnote numbers 6 and 9 in the table for North Carolina;

b. Adding the ''Middle Tennessee Area'' in the table for Tennessee and adding footnote number 10 next to it;

2. In 40 CFR 80.27(a)(2)(ii), the footnotes below the table are amended by:

a. Renumbering the existing footnote 6 below the table to a new footnote 8. Footnote 8 will read: ''The standard for Jefferson and Shelby Counties from June 1 until September 15 in 1992 through July 2, 2015 was 7.8 psi.'';

b. Renumbering the existing footnote 7 below the table to a new footnote 9. Footnote 9 will read: ''The standard for Mecklenburg and Gaston Counties from June 1 until September 15 in 1992 through 2015 was 7.8 psi.'';

c. Adding a new footnote 6 below the table. Footnote 6 will read: ''The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.'';

d. Adding a new footnote 7 below the table. Footnote 7 will read: ''The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.''

[2] See CAA section 211(h)(4).

[3] 40 CFR 80.27(a)(2)(ii) had not accurately reflected that the North Carolina entry in the table also included footnotes 6 and 9. As a result of today's rulemaking, the table will include the addition of Middle Tennessee and a new footnote 10 associated with it. The footnotes below the table were also inaccurate in that incorrect counties or areas were associated with the wrong footnote numbers. Therefore, the preexisting language in footnote 6 is retained but is renumbered as footnote 8. Similarly, the preexisting language in footnote 7 is retained but is renumbered as footnote 9. The correct version of footnotes 6 and 7 were not included in the preexisting language and thus new footnotes 6 and 7 are added in this final rule.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563. (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.,* and therefore is not subject to these requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The small entities subject to the requirements of this action are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in Tennessee and gasoline distributers and retail stations in Tennessee. This action relaxes the federal RVP standard for gasoline sold in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties during the summertime ozone season (June 1 to September 15 of each year) to allow the RVP for gasoline sold to rise from 7.8 psi to 9.0 psi. This rule does not impose any requirements or create impacts on small entities beyond those, if any, already required by or resulting from the CAA section 211(h) Volatility Control program. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This final rule does not contain an unfunded mandate of $100 million or more as described in the UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandates that are specifically and explicitly set forth in CAA section 211(h) without the exercise of any policy discretion by EPA.

E. Executive Order 13132 (Federalism)

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This final rule affects only those refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the Middle Tennessee Area and gasoline distributers and retail stations in the Middle Tennessee Area. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. EPA has no reason to believe that this action may disproportionately affect children since Tennessee has demonstrated that a relaxation of the gasoline RVP will not interfere with its attainment of the ozone NAAQS for the Middle Tennessee Area, or any other applicable CAA requirement.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the applicable ozone NAAQS which establish the level of protection provided to human health or the environment. This rule relaxes the applicable volatility standard of gasoline during the summer, possibly resulting in slightly higher mobile source emissions. However, the state of Tennessee's non-interference demonstration that this action will not interfere with maintenance of the ozone NAAQS in the Middle Tennessee Area, or with any other applicable CAA requirement. Therefore, disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result. The results of this evaluation are described in Section V. of this final rule. A copy of Tennessee's November 21, 2016 SIP revision requesting that EPA relax the gasoline RVP standard, including the technical analysis demonstrating that the less stringent gasoline RVP in the Davidson, Rutherford, Sumner, Williamson, and Wilson Counties would not interfere with continued maintenance of the 2008 ozone NAAQS, or with any other applicable CAA requirement, has been placed in the public docket for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. See CAA section 307(b)(2).

X. Legal Authority and Statutory Provisions

The statutory authority for this action is granted to EPA by CAA sections 211(h) and 301(a), as amended; 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 31, 2017.

E. Scott Pruitt,

Administrator.

For the reasons discussed in the preamble, the Environmental Protection Agency is amending 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

■ 2. Section 80.27 is amended in the table in paragraph (a)(2)(ii) by:

■ a. Revising the entries for North Carolina and Tennessee.

■ b. Revising footnotes 6 and 7.

■ c. Adding new footnotes 8, 9, and 10.

The revisions and additions read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

(ii) * * *

APPLICABLE STANDARDS[1] 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
* * *	*	*	*	*	
North Carolina[6 7 9]	9.0	9.0	9.0	9.0	9.0
* * *	*	*	*	*	
Tennessee:					
Knox County	9.0	9.0	9.0	9.0	9.0
Middle Tennessee Area[10]	9.0	9.0	9.0	9.0	9.0
All volatility nonattainment areas	9.0	7.8	7.8	7.8	7.8
* * *	*	*	*	*	

[1] Standards are expressed in pounds per square inch (psi).

* * * * * * * *

[6] The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

[7] The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

[8] The standard for Jefferson and Shelby Counties from June 1 until September 15 in 1992 through July 2, 2015 was 7.8 psi.

[9] The standard for Mecklenburg and Gaston Counties from June 1 until September 15 in 1992 through 2015 was 7.8 psi.

[10] The standard for the Middle Tennessee Area (Davidson, Rutherford, Sumner, Williamson, and Wilson Counties) from June 1 until September 15 in 1992 through June 7, 2017 was 7.8 psi.

* * * * *

[FR Doc. 2017–11700 Filed 6–6–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 270

[Docket No. FRA–2011–0060, Notice No. 6]

RIN 2130–AC31

System Safety Program

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

ACTION: Final rule; stay of regulations.

SUMMARY: On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement a system safety program (SSP) to improve the safety of their operations. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017, and extended the stay until May 22, 2017 and then to June 5, 2017. This document extends that stay until December 4, 2017.

DATES: Effective June 2, 2017, 49 CFR part 270 is stayed until December 4, 2017.

FOR FURTHER INFORMATION CONTACT: Matthew Navarrete, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel; telephone: 202–493–0138; email: *Matthew.Navarrete@dot.gov.*

SUPPLEMENTARY INFORMATION: On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement an SSP to improve the safety of their operations. See 81 FR 53850. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017 consistent with the new Administration's guidance issued January 20, 2017, intended to provide the Administration an adequate opportunity to review new and pending regulations. 82 FR 10443 (Feb. 13, 2017). To provide additional time for that review, FRA extended the stay until May 22, 2017 and then to June 5, 2017. 82 FR 14476 (Mar. 21, 2017) and 82 FR 23150 (May 22, 2017).

The review includes petitions for reconsideration of the SSP final rule (Petitions).[1] FRA will conduct some form of outreach with interested parties to inform its decisions on the issues raised in the Petitions. FRA will announce any outreach process by separate notice in the **Federal Register**. Accordingly, to allow time for potential outreach, and to complete review of the rule and the Petitions, FRA is extending the stay of the rule until December 4, 2017.

FRA's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public

[1] *See* SSP rulemaking docket for these petitions at: *https://www.regulations.gov/docket?D=FRA-2011-0060.*

comment on the stay is impracticable, unnecessary, and contrary to the public interest. The delay in the effective date until December 4, 2017, is necessary to continue the review of the rule and Petitions, including any potential outreach. Given the imminence of the effective date of the ''System Safety Program'' final rule, seeking prior public comment on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority: 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Issued in Washington, DC, on June 1, 2017.

Patrick T. Warren,

Executive Director.

[FR Doc. 2017–11727 Filed 6–2–17; 4:15 pm]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA–2016–0125]

RIN 2126–AK93

Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles

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

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action temporarily delays until September 5, 2017, the effective date of the final rule titled ''Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles,'' initially scheduled to become effective on February 13, 2017.

DATES: The effective date of the final rule published on December 14, 2016 (81 FR 90416), is delayed until September 5, 2017. The initial compliance date is September 1, 2018, with full phase in by September 1, 2019.

FOR FURTHER INFORMATION CONTACT: For legal issues, contact Thomas Healy, Office of Chief Counsel, at (202) 366–2992. For non-legal issues, contact Mike Pyne, Office of Rulemaking, at (202) 366–4171.

SUPPLEMENTARY INFORMATION: NHTSA bases this action in part on the Presidential directive expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'' (the January 20, 2017 memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of certain regulations that had been published in the **Federal Register**, but had not yet taken effect. Because the original effective date of the final rule published on December 14, 2016, fell within that 60-day window, the effective date of the rule was extended to March 21, 2017, in a final rule published on February 6, 2017 (82 FR 9368). The effective date was again extended to May 22, 2017, in a final rule published March 21, 2017 (82 FR 14477). The effective date was further extended until June 5, 2017, in a final rule published May 22, 2017 (82 FR 23150). Consistent with the memorandum of the Assistant to the President and Chief of Staff, and as stated in the February 6, 2017, final rule delaying the effective date, the Agency further delays the effective date of this regulation until September 5, 2017.

This delay of the effective date of the final rule is also based on the need to allow additional time to respond to several petitions for reconsideration filed in response to the final rule. These responses will provide regulated entities with greater certainty as to the requirements of the Minimum Sound Requirements for Hybrid and Electric Vehicles final rule prior to the rule coming into effect. Delaying the effective date of the final rule to allow additional time to respond to these petitions for reconsideration is prudent in this instance because the petitions concern topics such as the date by which manufacturers are required to comply with the rule's requirements and the stringency of the requirements themselves, both of which impact manufacturers' compliance plans.

The Agency's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The delay in the effective date until September 5, 2017, is necessary to provide the opportunity for further review and consideration of this new regulation, consistent with the January 20, 2017 memorandum. Given the imminence of the effective date of the ''Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles'' final rule, seeking prior public comment on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30116; delegation of authority at 49 CFR 1.95.

Terry T. Shelton,

Acting Executive Director.

[FR Doc. 2017–11732 Filed 6–2–17; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 160830798–7517–02]

RIN 0648–BG32

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Waterfront Construction

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

ACTION: Final rule.

SUMMARY: NMFS, upon request from the U.S. Navy (Navy), issues these regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the taking of marine mammals incidental to conducting waterfront construction at Naval Submarine Base Kings Bay, GA, over the course of five years (2017–2022). These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and establish requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from July 12, 2017, through July 11, 2022.

ADDRESSES: A copy of Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/*

permits/incidental/construction.htm. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

These regulations, issued under the authority of the MMPA (16 U.S.C. 1361 *et seq.*), establish a framework for authorizing the take of marine mammals incidental to the Navy's waterfront construction activities at Naval Submarine Base Kings Bay, GA (NSB Kings Bay). The Navy plans to repair (including direct repairs and repairs by component replacement) in-water structures at NSB Kings Bay, construct a new Transit Protection System Operational Support Facility, and extend the existing Layberth Pier in order to (1) address critical damage and mission and safety requirements, (2) limit further deterioration and increase the useful life of the structures, and (3) upgrade infrastructure to meet requirements of new submarine technology. Construction will include use of impact and vibratory pile driving, including installation and removal of steel, concrete, composite, and timber piles.

We received an application from the Navy requesting five-year regulations and authorization to take bottlenose dolphins. Take is anticipated to occur by Level B harassment incidental to impact and vibratory pile installation and removal. The regulations are valid from 2017 to 2022. Please see the ''Background'' section below for definitions of harassment.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity, as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this final rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Final Rule

Following is a summary of the major provisions of this final rule regarding Navy waterfront construction activities. We have determined that the Navy's adherence to the planned mitigation, monitoring, and reporting measures listed below will achieve the least practicable adverse impact on the affected marine mammals. These measures include:

- Required monitoring of the waterfront construction areas to detect the presence of marine mammals before beginning construction activities.
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals.
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Background

Paragraphs 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1371 (a)(5)(A) and (D)) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On January 19, 2016, we received an adequate and complete request from the Navy for authorization to take marine mammals incidental to waterfront construction activities. On February 17, 2016 (81 FR 8048), we published a notice of receipt of Navy's application in the **Federal Register**, requesting comments and information related to the request for 30 days. We did not receive any comments. The Navy provided a revised final draft incorporating minor revisions on March 17, 2017.

The Navy plans to repair in-water structures at NSB Kings Bay, as well as to construct new facilities and modify existing facilities. These repairs, upgrades, and new construction would include use of impact and vibratory pile driving, including installation and removal of steel, concrete, composite, and timber piles. Hereafter (unless otherwise specified or detailed), we use the term ''pile driving'' to refer to both pile installation and pile removal. The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Only the bottlenose dolphin (*Tursiops truncatus truncatus*) is expected to be present. The regulations are valid for five years, from July 12, 2017, through July 11, 2022.

Description of the Specified Activity

Additional detail regarding the specified activity was provided in our **Federal Register** notice of proposed rulemaking (82 FR 684; January 3, 2017); please see that notice or the Navy's application for more information.

Overview

NSB Kings Bay is the Navy's east coast home port for ballistic missile nuclear submarines supporting the Trident II (D–5) missile. NSB Kings Bay manages, maintains, and operates Trident ballistic missile (SSBN) and guided missile (SSGN) submarines, Trident II D–5 and Tomahawk Land Attack Missiles and systems, and infrastructure and quality of life facilities and programs. In 2010, the Navy found that conditions of water-

based support facilities varied widely from good to seriously deteriorated. Continuous monitoring of these conditions by Navy at NSB Kings Bay has confirmed the advanced deterioration and critical nature of some issues that pose operational and safety risks. Additionally, other areas of initial deterioration were identified which require remedy in order to maintain the useful life of existing structures. Damage observed includes deteriorated concrete piles, pile caps, and deck components (cracked, spalled, delaminated, exposed/corroded internal reinforcing steel structures); marine pest (marine wood borer) damage on wooden piles; broken or unmaintained mooring fittings; and corrosion on steel piles and pile caps. In some cases, it is more cost effective to demolish older structures that are deteriorated and not well configured to fit existing and upcoming assets and replace them with new structures that are specifically designed to meet new mission requirements.

To ensure the Navy can continue its mission of supporting the Fleet Ballistic Missile System and Trident Submarine Program, the Navy plans to repair (including direct repairs and repairs by component replacement) in-water structures at NSB Kings Bay, construct a new Transit Protection System Operational Support Facility, and extend the existing Layberth Pier. These repairs, upgrades, and new construction will (1) address critical damage and mission and safety requirements, (2) limit further deterioration and increase the useful life of the structures, and (3) upgrade infrastructure to meet requirements of new submarine technology. Construction will include use of impact and vibratory pile driving, including installation and removal of steel, concrete, composite, and timber piles. The specified activity is comprised of six distinct projects, four of which are comprised of multiple smaller projects.

Dates and Duration

The specified activity may occur at any time during the five-year period of validity of the regulations. Planned dates of individual projects and project components are shown in Table 1, however, project dates may shift. In-water construction activities would occur during daylight hours, defined here as one hour post-sunrise to one hour prior to sunset.

Specified Geographical Region

NSB Kings Bay is located in southeastern Georgia, approximately four miles inland (straight line distance) from the Atlantic Ocean, and approximately eight miles north of the Georgia-Florida border, along the western shore of Cumberland Sound (see Figure 2–1 in the Navy's application). NSB Kings Bay is an approximately 16,000-acre installation including the land areas and adjacent water areas along Kings Bay and Cumberland Sound between Marianna Creek to the north and Mill Creek to the south, and is restricted from general public access.

This estuarine environment receives salt water input from ocean waters through tidal exchange, and fresh water input from rivers, tributaries, and stormwater outfalls. The large tidal range and strong currents result in tidally mixed waters that are refreshed on a daily basis. Please see section 2 of the Navy's application for more information.

Detailed Description of Activities

The Navy plans to remove deteriorated timber, concrete, and steel piles and replace them with concrete, composite, and steel piles. New construction would involve installation of steel, concrete, and composite piles. Aspects of construction activities other than pile driving are not anticipated to have the potential to result in incidental take of marine mammals because they are either above water or do not produce levels of underwater sound with likely potential to result in marine mammal disturbance. Therefore, we do not discuss elements of construction activity other than pile driving. No concurrent pile driving would occur. Project specific pile totals are given in Table 1.

A vibratory hammer will be used for all pile removal work. If use of the vibratory hammer is not feasible for pile installation (*i.e.,* with steel piles), a Delmag Pile Hammer D62–22 or equivalent impact hammer will be used. The Delmag Pile Hammer D62–22 is a single acting diesel impact hammer with energy capacity of 76,899–153,799 foot-pounds. The most effective and efficient method of pile installation available will be implemented for each project. The method fitting these criteria may vary based on specific project requirements and local conditions. In some areas of Kings Bay a limestone layer can be found relatively close to the substrate/water interface. This type of layer requires impact driving because vibratory installation will not drive the piles to a sufficient depth. Impact driving, while generally producing higher levels of sound, also minimizes the net amount of active driving time, thus reducing the amount of time during which marine mammals may be exposed to noise. Impact or vibratory pile driving could occur on any day, but would not occur simultaneously.

TABLE 1—PILE DRIVING SUMMARY

ID	Project start (fiscal year)	Water depth (ft)	Pile size (in)	Pile type	Total number		Installation method	Estimated number of strikes per pile	Total maximum in-water work days
					Installed	Removed			
1A	2017	24	18	Concrete	148	0	Impact	60	30
			24	Concrete	18	0	Impact	70	4
			16	Timber	0	159	n/a	n/a	31
1B	2017	15	16	Composite	2	0	Vibratory	n/a	1
			16	Timber	0	2	n/a	n/a	1
2	2017	46	14	Steel (H)	55	0	Impact	80	7
3A	2017	46	24	Steel	2	2	Impact	70	2
	2022		24	Concrete	3	3	Impact	75	2
			24	Steel	10	10	Impact	70	7
3B	2021	46	14	Steel (H)	99	99	Impact	60	15
3C	2018	46	24	Steel	6	0	Impact	70	1
			30	Steel	0	6	n/a	n/a	1
3D	2017	46	24	Steel	6	0	Impact	70	1
			30	Steel	0	6	n/a	n/a	1
3E	2018	46	24	Steel	6	0	Impact	70	1
			30	Steel	0	6	n/a	n/a	1

TABLE 1—PILE DRIVING SUMMARY—Continued

ID	Project start (fiscal year)	Water depth (ft)	Pile size (in)	Pile type	Total number		Installation method	Estimated number of strikes per pile	Total maximum in-water work days
					Installed	Removed			
3F	2021	46	30	Steel	8	8	Impact	70	4
3G	2022	30	14	Steel (H)	77	77	Impact	60	16
4A	2020	35	24	Concrete	165	0	Impact	200	55
			18	Concrete	50	0	Impact	80	17
			24	Concrete	0	121	n/a	n/a	8
4B	2020	35	24	Steel	30	30	Impact	100	8
5	2017	46	18	Composite	18	0	Vibratory	n/a	3
			16	Timber	0	18	n/a	n/a	3
6A	2022	46	24	Concrete	0	649	n/a	n/a	41
6B	2022	46	24	Concrete	0	121	n/a	n/a	6

Table 2 shows total piles planned for installation (I) and removal (R) by pile type and size in total and per year. Note that no pile driving is planned for fiscal year (FY) 2019. Below we provide further detail specific to individual projects and project components. For additional detail, please see section 1 of the Navy's application.

TABLE 2—PILE TOTALS BY TYPE AND YEAR

Pile type	Size (in)	FY2017		FY2018		FY2020		FY2021		FY2022		Totals	
		I	R	I	R	I	R	I	R	I	R	I	R
Composite	16	2	0	0	0	0	0	0	0	0	0	2	0
	18	18	0	0	0	0	0	0	0	0	0	18	0
Concrete	18	148	0	0	0	50	0	0	0	0	0	198	0
	24	18	0	0	0	165	121	0	0	3	773	186	894
Steel (H)	14	55	0	0	0	0	0	99	99	77	77	231	176
Steel	24	8	2	12	0	30	30	0	0	10	10	60	42
	30	0	6	0	12	0	0	8	8	0	0	8	26
Timber	16	0	179	0	0	0	0	0	0	0	0	0	179
Totals		249	187	12	12	245	151	107	107	90	860	703	1,317

Comments and Responses

We published a notice of proposed rulemaking in the **Federal Register** on January 3, 2017 (82 FR 684). During the 30-day comment period, we received a letter from the Marine Mammal Commission (Commission) and comments from two private citizens. The comments and our responses are described below.

Comment 1: The Commission recommends that we require the Navy to conduct source level measurements during vibratory driving of a representative number of 16-inch (in) composite piles in addition to the other pile types and methods proposed to be monitored.

Response: We agree with the Commission's recommendation, and the Navy's monitoring plan has been revised accordingly.

Comment 2: The Commission recommends that we require the Navy to conduct sound propagation measurements in addition to source level measurements during the various activities that would be monitored acoustically to refine the extent of the Level A and B harassment zones.

Response: This was originally the intent of the acoustic monitoring plan, and the Navy's monitoring plan has been revised for clarity.

Comment 3: The Commission recommends that we require the Navy to reallocate additional monitoring effort to the first two years of activities and ensure that monitoring occurs during a representative portion of the various pile sizes, types, and methods including during impact driving of steel pipe piles.

Response: The Navy has clarified that impact and vibratory pile driving may occur interchangeably on any given day. Therefore, for example, although the description of Project 1A includes a maximum of 31 days of vibratory removal and 30 days of impact installation, these days would not likely be independent, and the much smaller disturbance zone for impact driving would be contained within the zone associated with vibratory driving. We have revised the monitoring plan to include monitoring of the disturbance on a portion of days associated with Project 2; with this addition, all projects other than 1B and the FY17 phase of Project 3A (each of which involves only two days of pile driving) incorporate some disturbance zone monitoring effort. We therefore believe that the monitoring plan achieves the goals expressed in the Commission's recommendation.

Comment 4: A private citizen, while expressing support for the Navy's proposed waterfront construction activities, suggests that the length of the project may result in long-term avoidance and have permanent adverse effects on the Western North Atlantic South Carolina/Georgia Coastal Stock of bottlenose dolphins. The commenter recommends that the opportunity be used to fill gaps in research in order to provide insight regarding the human impact on marine mammals.

Response: We appreciate the commenter's concern. While the best available information does not lead us to believe that long-term avoidance or permanent adverse effects to any potentially affected stocks of bottlenose dolphin are reasonably anticipated outcomes of the specified activity, NMFS's implementing regulations (50 CFR 216.104) do require that applicants for incidental take authorization propose the suggested means of monitoring and reporting that will result in increased knowledge of the species, and of the level of taking or impacts on populations of marine mammals. Please

see ''Monitoring and Reporting,'' later in this document, for details of planned monitoring and reporting requirements.

Comment 5: A private citizen states that protection of marine life is critical to maintaining balanced ecosystems and that mass stranding of marine life is undesirable.

Response: We agree with the sentiments expressed by the commenter and issue this final rule in accordance with the requirements of the MMPA, which address the Congressional finding that marine mammal species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part (16 U.S.C. 1361(2)). However, no mass stranding of marine life is anticipated to result from the specified activity, and no injury or mortality of marine mammals is anticipated or authorized.

Description of Marine Mammals in the Area of the Specified Activity

Only one species under NMFS's jurisdiction is considered to have the potential to co-occur with Navy activities: The bottlenose dolphin. However, multiple stocks of bottlenose dolphin have the potential to be present. The offshore stock of bottlenose dolphins is considered extralimital to the project area and is not discussed further in this document.

Table 3 lists all species and stocks with expected potential for occurrence in the specified geographical region where Navy plans to conduct the specified activity, and summarizes information related to the population or stock, including potential biological removal (PBR). PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality (as described in NMFS's SARs).

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NSB KINGS BAY

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in Kings Bay; season of occurrence [5]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises) Family Delphinidae						
Bottlenose dolphin.	Western North Atlantic Coastal, South Carolina/Georgia.	D; Y	4,377 (0.43; 3,097; 2009) ..	31	1.2–1.6	Likely; year-round.
	WNA Coastal, Northern Florida.	D; Y	1,219 (0.67; 730; 2009)	7	0.4	Rare; year-round.
	WNA Coastal, Southern Migratory.	D; Y	9,173 (0.46; 6,326; 2009) ..	63	0–12	Rare; January–March.
	Southern Georgia Estuarine System.	-; Y	194 (0.05; 185; 2009)	1.9	Unk	Likely; year-round.
	Jacksonville Estuarine System.	-; Y	Unknown	Undetermined	1.2	Rare; year-round.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a range.

[5] The Navy considers ''rare'' to mean that there may be a few confirmed sightings or that the distribution of the stock is near enough to the area of interest that the species could occur there, and that overall the stock may occur but only infrequently or in small numbers. ''Likely'' is considered to mean that confirmed and regular sightings of the species occur year-round. Extralimital stocks are those that are considered unlikely to co-occur with the activity because the action area is outside the range of normal occurrence, but for which there may be some sighting or stranding records.

We presented a detailed discussion of the status of these stocks and their occurrence in the action area in the notice of the proposed rulemaking (82 FR 684; January 3, 2017), and do not repeat the information here. Please see that document for more information. In summary, the southern Georgia estuarine system stock and the South Carolina/Georgia coastal stock are expected to be the two stocks most likely to be affected by the specified activity. Individual animals from the northern Florida and southern migratory (January to March only) coastal stocks and the Jacksonville estuarine system stock may also occur rarely.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

We provided discussion of the potential effects of the specified activity on marine mammals and their habitat in our **Federal Register** notice of proposed rulemaking (January 3, 2017; 82 FR 684). Therefore, we do not reprint the information here but refer the reader to that document. That discussion included a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take'' section later in this preamble includes a quantitative analysis of the number of incidents of

take expected to occur incidental to this activity. The ''Negligible Impact Analysis'' section includes an analysis of how this specific activity will impact marine mammals, and considers the content of the discussion of potential effects to marine mammals and their habitat, the ''Estimated Take'' section, and the ''Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals, and from that on the affected marine mammal populations or stocks.

Estimated Take

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Anticipated takes would be by Level B harassment, as pile driving activity has the potential to result in disruption of behavioral patterns for individual marine mammals. Level A harassment by auditory injury is unlikely to occur as a result of this activity for bottlenose dolphins (*i.e.,* mid-frequency hearing specialists) and, although it is unlikely that take by Level A harassment would occur even in the absence of the planned mitigation and monitoring measures, the measures are expected to further minimize such potential. The Navy has requested authorization for the incidental taking by Level B harassment of bottlenose dolphins in the vicinity of NSB Kings Bay that may result from pile driving during waterfront construction activities described previously in this document.

Sound Thresholds

We provided discussion of relevant sound thresholds in our **Federal Register** notice of proposed rulemaking (January 3, 2017; 82 FR 684) and do not reprint the information here. Please see Table 4 for those criteria.

TABLE 4—ACOUSTIC EXPOSURE CRITERIA

Criterion	Definition	Threshold
Level A harassment (mid-frequency cetaceans).	Injury (onset PTS—any level above that which is known to cause TTS).	230 dB[1] (peak pressure) or 185 dB[2] (cumulative sound exposure level).
Level B harassment	Behavioral disruption	160 dB root mean square (rms) (impulse sources); 120 dB rms (non-impulsive, continuous sources).

[1] Referenced to 1 μPa; unweighted within generalized hearing range.
[2] Referenced to 1 μPa^2s; weighted according to appropriate auditory weighting function.

Based on consideration of NMFS's 2016 ''Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing,'' potential injury zones are fully encompassed by Navy's planned shutdown zones. Predicted isopleth distances for auditory injury (*i.e.,* Level A harassment) were calculated for all construction scenarios (*e.g.,* combinations of pile types, hammer types, and assumed number of piles driven per day or driving duration per day). This information was used with NMFS's optional user spreadsheet, a tool developed to help applicants implement the new Technical Guidance. For vibratory driving, predicted zones ranged from less than 1 m to 3.6 meters (m). For impact driving, predicted zone ranged from less than 1 m to 38 m. All zones were smaller than the Navy's proposed minimum shutdown zone of 15 m, except for impact driving of 24-in steel piles associated with project 4B in FY20 (16.6 m) and impact driving of 30-in steel piles associated with project 3F in FY 2021 (38 m). Shutdown zones associated with these projects would be increased to 20 m and 40 m, respectively, in order to encompass the predicted injury zones. In consideration of the small injury zones and the Navy's mitigation, we believe that injury will be avoided. We have considered the new guidance and believe that the likelihood of injury is adequately addressed in this analysis, and appropriate protective measures are in place in these regulations.

Zones of Influence

Sound Propagation—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

where,

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 decibels (dB) in sound level for each doubling of distance from the source (10*log(range)). As is common practice in coastal waters, here we assume practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) here. Practical spreading is a compromise that is often used under conditions where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Sound Source Levels and Behavioral Zones—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. However, there are no measurements available from the specific environment of NSB Kings Bay. Numerous studies have examined sound

pressure levels (SPLs) recorded from underwater pile driving projects in California and Washington, and the Navy has conducted a few studies on the east coast. In addition, the majority of studies are focused on steel pipe piles, with less data available for other pile types. In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from pile driving at NSB Kings Bay, studies with similar properties to the specified activity were evaluated, and are displayed in Table 5. Where available, data from the east coast were prioritized due to the differences in bathymetry and sediment at west coast sites. For pile types for which data from the east coast were not available, averages of west coast data were used to approximate source levels. For fiberglass reinforced plastic composite piles, no measured data are available. The source level estimates for this type of pile were based on data from timber piles driven on the east coast of the U.S, assuming that this is the most similar pile material. In all cases, where data from the same pile size/type were not available, a more conservative proxy was used. Where appropriate, weighted project averages were considered. Values measured at distances greater than 10 m were normalized to 10 m before calculating averages. For full details of data considered, please see Appendix C of the Navy's application.

TABLE 5—SUMMARY OF PROXY MEASURED UNDERWATER SOUND PRESSURE LEVELS

[SPLs]

Method	Pile size and material	Proxy	Proxy source levels (dB at 10 m)		
			rms	pk	SEL
Vibratory	16″ timber; 16–18″ composite	12–16″ timber [1]	161	n/a	n/a
Vibratory	18–24″ concrete	24″ steel pipe [2–5]	166	n/a	n/a
Vibratory	14″ steel H	14″ steel H [6]	163	n/a	n/a
Vibratory	24″ steel pipe	24″ steel pipe [2–5]	166	n/a	n/a
Vibratory	30″ steel pipe	30″ steel pipe [7–9]	166	n/a	n/a
Impact	18″ concrete	18″ concrete [4]	170	184	159
Impact	24″ concrete	24″ concrete [1 6]	174	184	165
Impact	14″ steel H	14″ steel H [4]	178	196	168
Impact	24″ steel pipe	24″ steel pipe [4 10–11]	190	206	179
Impact	30″ steel pipe	30″ steel pipe [4 8 10 12]	193	209	188

Sources: [1] Illingworth & Rodkin, 2015; [2] Illingworth & Rodkin, 2010; [3] Illingworth & Rodkin, 2012; [4] Caltrans, 2012; [5] Illingworth & Rodkin, 2013b; [6] Illingworth & Rodkin, 2013a; [7] Laughlin, 2010a; [8] Laughlin, 2010b; [9] Laughlin, 2011; [10] Laughlin, 2005a; [11] Laughlin, 2005b; [12] MacGillivray and Racca, 2005.

We consider the values presented in Table 5 to be representative of SPLs that may be produced by the specified activity. All calculated distances to and the total area encompassed by the marine mammal sound thresholds are provided in Table 6. Calculated radial distances to the 160 dB threshold assume a field free of obstruction. However, the waters surrounding NSB Kings Bay do not represent open water conditions and the calculated zone-specific areas take landforms into consideration. Actual zones are depicted in Figures 6–1 through 6–26 of the Navy's application. Although calculated radial distances to threshold do not change, the actual zone sizes may vary depending on the specific project location.

TABLE 6—DISTANCES TO RELEVANT SOUND THRESHOLDS AND AREAS OF ENSONIFICATION

Project	Pile type	Distance to threshold (m) and associated area of ensonification (km^2)			
		160 dB		120 dB	
1A	16″ timber	n/a	n/a	5,412	3.69
1A	18″ concrete	46.4	0.01	n/a	n/a
1A	24″ concrete	85.8	0.02	n/a	n/a
1B	16″ timber/composite	n/a	n/a	5,412	3.12
2	14″ steel H	159	0.06	n/a	n/a
3A (FY17)	24″ steel pipe	1,000	0.88	11,659	3.63
3A (FY22)	24″ concrete	85.8	0.02	11,659	3.63
3A (FY22)	24″ steel pipe	1,000	0.88	11,659	3.63
3B	14″ steel H	159	0.04	7,356	2.40
3C	24–30″ steel pipe	1,000	0.75	11,659	3.32
3D	24–30″ steel pipe	1,000	0.90	11,659	3.17
3E	24–30″ steel pipe	1,000	0.88	11,659	3.72
3F	30″ steel pipe	1,585	1.35	11,659	3.49
3G	14″ steel H	159	0.07	7,356	4.00
4A	18″ concrete	46.4	0.02	11,659	7.51
4A	24″ concrete	85.8	0.01	11,659	7.51
4B	24″ steel pipe	1,000	1.63	11,659	6.87
5	16″ timber/18″ composite	n/a	n/a	5,412	10.75
6A/6B	24″ concrete	n/a	n/a	11,659	9.34

Areas presented take into account attenuation and/or shadowing by land. Please see Figures 6–1 to 6–26 in the Navy's application.

Marine Mammal Density

The Navy conducted marine mammal surveys at NSB Kings Bay during 2006–2007 (McKee and Latusek, 2009). Transect lines were run in the waters around NSB Kings Bay during summer and fall 2006 and during winter and spring 2007. The survey area included estuarine waters extending from the mouth of the St. Marys River north through the Cumberland Sound to approximately eight nautical miles (nmi) inland along the Satilla River. The Crooked River and the Brickhill River, which flow into Cumberland Sound, were also part of the study area, though line transects were not possible in these locations, and census counts were substituted here. The geographic limits ranged from 30°40′ N. to 31°00′ N. and inland limits to 81°40′ W. Nearshore Atlantic waters were not included in the surveys.

Observations were made with 7x50 power binoculars and with the naked eye, scanning from 0–90° relative to the vessel's line of travel. Sightings, radial distance and angle to animal, and number of individuals were recorded. For census count areas, the vessel was driven along the center line of the river and distance and angle to sightings were noted. Commercially available software (Distance 5.0) was used to analyze the collected data, including area surveyed, and calculate a seasonal density. Seasonal densities were combined to calculate an average annual density of 1.12 dolphins per square kilometer (km^2).

Incidental Take Calculation

The species density described above (1.12 animals/km^2) was multiplied by the activity-specific ZOIs shown in Table 6 to determine the estimated daily exposures. The Navy then rounded these daily exposure estimates to the nearest whole number before multiplying by activity-specific pile driving days, shown in Table 1, to yield the exposure estimates shown in Table 7. The Navy has requested authorization for a total of 881 incidents of Level B harassment of bottlenose dolphins over the five-year period of validity of these regulations. Table 7 displays the total take estimate broken out by project and year. However, note that year assignments reflect only the projected project start years. Projects may continue into succeeding years, but neither exact start dates nor whether a project would in fact continue into the succeeding year are known at this time.

TABLE 7—INCIDENTAL TAKE TOTALS

Year	Project	Impact	Vibratory
FY17	1A	0	124
	1B	n/a	6
	2	0	n/a
	3A	1	4
	3D	1	4
	5	n/a	72
FY17 Totals	n/a	2	210
		212	
FY18	3C	1	4
	3E	1	4
FY18 Totals	n/a	2	8
		10	
FY19	n/a		
FY20	4A	0	64
	4B	8	32
FY20 Totals	n/a	8	96
		104	
FY21	3B	0	21
	3F	4	8
FY21 Totals	n/a	4	29
		33	
FY22	3A	4	16
	3G	0	32
	6A	n/a	410
	6B	n/a	60
FY22 Totals	n/a	4	518
		522	
FY17–22 Totals	n/a	20	861
		881	

Analyses and Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be taken by mortality, serious injury, and Level A or Level B harassment, we consider other factors, such as the likely nature of any behavioral responses (*e.g.,* intensity, duration), the context of any such responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes (if any), and effects on habitat. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status (*i.e.,* the environmental baseline).

Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, sources of human-caused mortality).

Pile driving activities associated with the wharf construction projects, as described previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individual bottlenose dolphins are present in the ensonified zone when pile driving is happening.

No serious injury or mortality would be expected even in the absence of the planned mitigation measures. No Level A harassment is anticipated given the nature of the activities and measures designed to minimize the possibility of injury. The potential for injury is small, and is expected to be essentially eliminated through implementation of the planned mitigation measures—soft start (for impact driving) and shutdown zones. Impact driving, as compared with vibratory driving, has source characteristics (short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks) that are potentially injurious or more likely to produce severe behavioral reactions. Given sufficient notice through use of soft start, marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious or resulting in more severe behavioral reactions. Environmental conditions in waters surrounding NSB Kings Bay are expected to generally be good, with calm sea states, albeit with high turbidity. Nevertheless, we expect conditions would allow a high marine mammal detection capability, enabling a high rate of success in implementation of shutdowns to avoid injury.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in San Francisco Bay and in the Puget Sound region, which have taken place with no known long-term adverse consequences from behavioral harassment.

The Navy has conducted similar multi-year activities potentially affecting bottlenose dolphins in San Diego Bay and in the same general region at Mayport, Florida, that have similarly reported no apparently consequential behavioral reactions or long-term effects on bottlenose dolphin populations (Lerma, 2014; Navy, 2015). Repeated exposures of individuals to relatively low levels of sound outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory driving associated with some project components may produce sound at distances of multiple kilometers from the pile driving site, thus intruding on higher-quality habitat, the project sites themselves and the majority of sound fields produced by the specified activities are within a heavily impacted, industrialized area. Therefore, we expect that animals annoyed by project sound would simply avoid the area and use more-preferred habitats.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including known areas or features of special significance for foraging or reproduction; and (4) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact. In addition, while some of the potentially affected stocks are considered depleted under the MMPA, it is unlikely that minor noise effects in a small, localized area would have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, we find that the total marine mammal take from the Navy's waterfront construction activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

Please see Table 7 for information relating to this small numbers analysis; as described previously, although we provide exposure estimates broken out by year and project component, we do not have specific information about when each project would be concluded

or therefore how many takes may actually accrue in any given year during the five-year period of validity of these regulations. An average of 176 incidents of behavioral harassment of bottlenose dolphins is predicted to occur annually over the five-year effective period of these regulations; we have no information allowing us to parse the predicted incidents amongst the stocks of bottlenose dolphin that may occur in the project area. However, because they would be expected to occur only rarely and/or seasonally, we assume that only small numbers of individuals of the northern Florida coastal, southern migratory coastal, and Jacksonville estuarine system stocks would be potentially present and available to be taken as a result of the specified activities.

The South Carolina/Georgia coastal and southern Georgia estuarine system (SGES) stocks are expected to potentially be present more regularly. For the South Carolina/Georgia coastal stock, the predicted annual average number of incidents of take to be authorized is considered small—approximately four percent—even if each estimated taking was of a new individual. This is an extremely unlikely scenario as, for bottlenose dolphins in estuarine and nearshore waters, there is likely to be some overlap in individuals present day-to-day.

The total number of authorized takes for bottlenose dolphins, if assumed to accrue solely to unique individuals of the SGES stock, is higher relative to the total stock abundance, which is currently estimated at 194 individuals. As described previously, this estimate is the result of surveys covering only a portion of the stock range and is assumed to underestimate the stock abundance. Regardless, these numbers represent the estimated incidents of take, not the number of individuals taken. That is, it is highly likely that a relatively small subset of SGES bottlenose dolphins would be harassed by project activities. SGES bottlenose dolphins range from Cumberland Sound at the Georgia-Florida border north to the Altamaha Sound, Georgia, an area spanning approximately 70 linear km of coastline and including habitat consisting of complex inshore and estuarine waterways. SGES dolphins show strong site fidelity (Balmer *et al.,* 2013), and it is likely that the majority of SGES dolphins would not occur within waters ensonified by project activities. In summary, SGES dolphins are known to exhibit strong site fidelity (*i.e.,* individuals do not generally range throughout the recognized overall SGES stock range), and the specified activity will be stationary within a relatively enclosed industrial area not recognized as an area of any special significance that would serve to attract or aggregate dolphins. We therefore believe that the estimated numbers of take, were they to occur, likely represent repeated exposures of a much smaller number of bottlenose dolphins, and that these estimated incidents of take represent small numbers of bottlenose dolphins.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, we find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.'' NMFS's implementing regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

The mitigation strategies described below largely follow those required and successfully implemented under previous incidental take authorizations issued in association with similar construction activities. Measurements from similar pile driving events were coupled with practical spreading loss and other relevant information to estimate zones of influence (ZOI; see ''Estimated Take'' section); these ZOI values were used to develop mitigation measures for pile driving activities at NSB Kings Bay. Background discussion related to underwater sound concepts and terminology was provided in the section on ''Description of Sound Sources,'' in our **Federal Register** notice of proposed rulemaking (January 3, 2017; 82 FR 684, at 694–695). Practical spreading loss is discussed in further detail previously in this preamble in the section on ''Zones of Influence.'' The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to dolphins, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, the Navy will conduct briefings for construction supervisors and crews, marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures. All relevant personnel will watch applicable sections of the Navy's Marine Species Awareness Training video. Relevant personnel will also follow NMFS's ''Southeast Region Marine Mammal and Sea Turtle Viewing Guidelines,'' which are described in Attachment 1 of Navy's Monitoring Plan.

Monitoring and Shutdown for Pile Driving

The following measures will apply to the Navy's mitigation through shutdown and disturbance zones:

Shutdown Zone—The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing some undesirable outcome, such as auditory injury or behavioral disturbance of sensitive species (serious injury or death are unlikely outcomes even in the absence of mitigation measures). For all pile driving activities, the Navy will establish a minimum shutdown zone with radial distance of 15 m. This minimum zone is intended to prevent the already unlikely possibility of physical interaction with construction equipment and to establish a precautionary minimum zone with regard to acoustic effects.

As described previously in the ''Estimated Take'' section, we used NMFS's user spreadsheet, an optional companion spreadsheet associated with the alternative implementation methodology provided in Appendix D of NMFS's acoustic guidance (NMFS, 2016), to calculate project, pile type, and pile driving methodology-specific zones within which auditory injury (*i.e.,* Level A harassment) could occur. The user spreadsheet is publicly available online at *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* In using the spreadsheet, we assumed practical spreading loss and used supplementary information provided by the Navy regarding assumed number of piles driven per day and number of pile strikes necessary to install a pile (for

impact pile driving) and daily duration of pile driving (for vibratory pile driving). Assumed source levels are provided in Table 5.

In most cases, this minimum shutdown zone of 15 m is expected to contain the area in which auditory injury could occur. All predicted auditory injury zones are less than the minimum 15 m shutdown zone (radial distance range: 0.5–13.1 m), with the exception of impact driving of 30-in steel piles associated with Project 3F (radial distance of 38 m) and impact driving of 24-in steel piles associated with Project 4B (radial distance of 16.6 m). In all cases, predicted injury zones are calculated on the basis of cumulative sound exposure, as peak pressure source levels are below the injury threshold for mid-frequency cetaceans. For these two scenarios we require shutdown zones of 40 m and 20 m radial distance, respectively.

Injury zone predictions generated using the optional user spreadsheet are precautionary due to a number of simplifying assumptions. For example, the spreadsheet tool assumes that marine mammals remain stationary during the activity and does not account for potential recovery between intermittent sounds. In addition, the tool incorporates the acoustic guidance's weighting functions through use of a single-frequency weighting factor adjustment intended to represent the signal's 95 percent frequency contour percentile (*i.e.,* upper frequency below which 95 percent of total cumulative energy is contained; Charif *et al.,* 2010). This will typically result in higher predicted exposures for broadband sounds, since only one frequency is being considered, compared to exposures associated with the ability to fully incorporate the guidance's weighting functions.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB root mean square (rms) (for impulsive and non-impulsive, continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone, and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 6.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location and the location of the pile being driven are known, and the location of the animal may be estimated as a distance from the observer and then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational data, and a precise accounting of observed incidents of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes, in cases where the entire zone was not monitored and/or all days of activity were not monitored.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving activities. In addition, observers will record all incidents of marine mammal occurrence, regardless of distance from activity, and monitors will document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown. That pile segment will be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 15 minutes prior to initiation through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Observation of shutdown zones will always occur, but observation of the larger disturbance zones will occur on a subset of days associated with each specific project (see project-specific details provided in ''Monitoring and Reporting,'' later in this document). Please see the Monitoring Plan, developed by the Navy in agreement with NMFS, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by designated observers, who will be placed at the best vantage point(s) practicable (as defined in the Monitoring Plan) to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Observers would have no other construction-related tasks while conducting monitoring. Observers should have the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of bottlenose dolphins, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to document observations including, but not limited to: The number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury of marine mammals from construction noise within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for 15 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals. Animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition), and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted

throughout the time required to drive a pile and for thirty minutes following the conclusion of pile driving.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning marine mammals or providing them with a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The Navy will utilize soft start techniques for impact pile driving. We require an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then 2 subsequent 3-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer; the requirement to implement soft start for impact driving is independent of whether vibratory driving has occurred within the prior 30 minutes.

We have carefully evaluated the Navy's proposed mitigation measures and considered a range of other measures in the context of ensuring that we prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at a biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of these measures, we have determined that the planned mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving, or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

The Navy provided a separate Marine Mammal Monitoring Plan, which is available online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Visual Marine Mammal Observations

The Navy will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The Navy would monitor all shutdown zones at all times, and would monitor disturbance zones during a varying subset of total project days. Disturbance zone monitoring effort during the first two years of project activities is expected to provide verification during the early stages of the project regarding assumed numbers of bottlenose dolphins present in the area. If compliance monitoring results suggest that the actual number of incidental take events may differ significantly from the number originally authorized, the Navy would consult with NMFS. The Navy will conduct monitoring before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, the Navy will implement the following procedures for pile driving:

- Marine mammal observers will be located at the best vantage point(s) in

order to properly see the entire shutdown zone and as much of the disturbance zone as possible.

- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted.
- The shutdown zone around the pile will be monitored for the presence of marine mammals before, during, and after all pile driving activity, while disturbance zone monitoring will be implemented according to the schedule proposed here.

Notional marine mammal observation locations are depicted in Figures 3–14 of the Navy's monitoring plan. Total days planned for each project are provided above in Table 1. Project-specific disturbance zone monitoring is described in the following list.

- Project 1A—A minimum of three observers will be deployed to monitor the disturbance zone on a minimum of ten days of vibratory pile driving.
- Project 1B—Only two total days of work are planned as part of Project 1B, and no disturbance zone monitoring will occur.
- Project 2—Only impact pile driving is proposed in association with Project 2; therefore, the disturbance zone would be visible during shutdown zone monitoring. However, a minimum of two observers will be deployed to monitor the zones on a minimum of three of the seven anticipated days of pile driving.
- Project 3A—This project is expected to occur in two phases, beginning in FY2017 and FY2022. During phase one, only two total days of work are planned and no disturbance zone monitoring will occur. During phase two, a minimum of three observers will be deployed to monitor the disturbance zone on a minimum of three days of vibratory pile driving.
- Project 3B—A minimum of three observers will be deployed to monitor the disturbance zone on a minimum of five days of vibratory pile driving.
- Projects 3C, 3D, and 3E—A minimum of two observers will be deployed to monitor the disturbance zone during all impact driving associated with these projects.
- Project 3F—A minimum of three observers will be deployed to monitor the disturbance zone on a minimum of two days of vibratory pile driving.
- Project 3G—A minimum of three observers will be deployed to monitor the disturbance zone on a minimum of four days of vibratory pile driving.
- Project 4A—A minimum of four observers will be deployed to monitor the disturbance zone on a minimum of eight days of vibratory pile driving.
- Project 4B—A minimum of four observers will be deployed to monitor the disturbance zone on a minimum of three days of vibratory pile driving.
- Project 5—A minimum of four observers will be deployed to monitor the disturbance zone on a minimum of three days of vibratory pile driving.
- Projects 6A and 6B—A minimum of five observers will be deployed to monitor the disturbance zone on a minimum of twelve days of vibratory pile driving.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to the protocol will be coordinated between NMFS and the Navy.

Data Collection

We require that observers use standardized data forms. Among other pieces of information, the Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* wind speed, percent cloud cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay).
- Locations of all marine mammal observations; and
- Other human activity in the area.

Acoustic Monitoring

The Navy will implement a sound source level verification study during activities associated with specific project components of interest. Because data is relatively lacking for these pile types, data collection would be targeted towards impact and vibratory driving of concrete, timber, and composite piles. A sample scope of work for acoustic monitoring is provided as Attachment 3 of the Navy's monitoring plan. The exact specifications of the acoustic monitoring work would be finalized in consultation with Navy personnel, subject to constraints related to logistics and security requirements. Reporting of measured sound level signals will include the average, minimum, and maximum rms value and frequency spectra for each pile monitored. Peak and single-strike SEL values would also be reported for impact pile driving. Acoustic monitoring would be conducted in association with Project 1A (impact driving of 18–24″ concrete piles and vibratory removal of 16″ timber piles); Project 2 (impact driving of 14″ steel H piles); Project 4A (impact driving of 18–24″ concrete piles and vibratory removal of 24″ concrete piles); and Project 5 (vibratory removal of 18″ timber piles and vibratory installation of 18″ composite piles). Propagation loss measurements will also be part of the plan.

Marine Mammal Surveys

Subject to funding availability, additional work would be performed to describe the spatial and temporal distributions of bottlenose dolphins and their densities in areas that may be affected by the specified activities. Surveys would be performed as soon as practicable.

Reporting

A draft report will be submitted to NMFS within 90 days of the completion of the monitoring period for each project. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals, a complete description of all mitigation shutdowns and the results of those actions, and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report. The Navy will also submit a comprehensive summary report

following conclusion of the specified activities.

Adaptive Management

The regulations governing the take of marine mammals incidental to Navy waterfront construction activities contain an adaptive management component.

The reporting requirements associated with this final rule are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects on marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Changes to the Proposed Regulations

In response to public comment, and as a result of clarifying discussions with the Navy, we made certain changes to the proposed regulations as described here. These changes are considered minor and do not affect any of our preliminary determinations.

Monitoring

We have added a requirement to conduct disturbance zone monitoring for Project 2, and have clarified that disturbance zone monitoring for Projects 3C–E would occur within the estimated 1,000-m disturbance zone associated with impact pile driving. We have also clarified that required acoustic monitoring will include measurements of propagation loss in addition to measurements of sound source levels. Finally, in order to accomplish acoustic monitoring of composite piles we have substituted Project 5 for Projects 6A–B in the acoustic monitoring plan.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

In our **Federal Register** notice of proposed rulemaking (January 3, 2017; 82 FR 684), we stated our intent to independently evaluate the Navy's draft EA and determine whether or not to adopt it. Since publication of the proposed rule, NOAA has completed revisions to NOAA's procedures for implementing NEPA and related authorities, as contained in the Companion Manual to NOAA Administrative Order (NAO) 216–6A (Companion Manual). The Companion Manual includes NOAA's revised categorical exclusions (CE) and related extraordinary circumstances.

In accordance with the Companion Manual and NAO 216–6A, we have determined that issuance of this final rule qualifies to be categorically excluded from further NEPA review. Issuance of this final rule is consistent with categories of activities identified in CE B4 of the Companion Manual and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual that would preclude application of this CE. NMFS has prepared a CE memorandum for the record.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. Navy is the sole entity that would be subject to the requirements of these regulations, and the U.S. Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. However, this rule does not contain a collection-of-information requirement subject to the provisions of the PRA because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: June 2, 2017.

Samuel D. Rauch, III,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, NMFS amends 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

Subpart Y—[Reserved]

■ 2. Add reserved subpart Y.

■ 3. Add subpart Z to read as follows:

Subpart Z—Taking Marine Mammals Incidental to Navy Waterfront Construction Activities at Naval Submarine Base Kings Bay

Sec.

217.250 Specified activity and specified geographical region.
217.251 Effective dates.
217.252 Permissible methods of taking.
217.253 Prohibitions.
217.254 Mitigation requirements.
217.255 Requirements for monitoring and reporting.
217.256 Letters of Authorization.
217.257 Renewals and modifications of Letters of Authorization.
217.258 [Reserved]
217.259 [Reserved]

§ 217.250 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy), and those persons it authorizes or funds to conduct activities on its behalf, for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to waterfront construction activities.

(b) The taking of marine mammals by Navy may be authorized in a Letter of Authorization (LOA) only if it occurs within waters adjacent to Naval Submarine Base Kings Bay and Crab Island.

§ 217.251 Effective dates.

Regulations in this subpart are effective from July 12, 2017, through July 11, 2022.

§ 217.252 Permissible methods of taking.

Under LOAs issued pursuant to § 216.106 of this chapter and § 217.256, the Holder of the LOA (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.250(b) by Level B harassment associated with waterfront construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.253 Prohibitions.

Notwithstanding takings contemplated in § 217.250 and authorized by a LOA issued under § 216.106 of this chapter and § 217.256, no person in connection with the activities described in § 217.250 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under § 216.106 of this chapter and § 217.256;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 217.254 Mitigation requirements.

When conducting the activities identified in § 217.250, the mitigation measures contained in any LOA issued under § 216.106 of this chapter and § 217.256 must be implemented. These mitigation measures shall include but are not limited to:

(a) General conditions:

(1) A copy of any issued LOA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of the issued LOA.

(2) The Navy shall conduct briefings for construction supervisors and crews, marine mammal monitoring team, acoustic monitoring team, and Navy staff prior to the start of the first pile driving activity conducted pursuant to this chapter, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) Except for pile driving covered under paragraphs (c) and (d) of this section, for all pile driving activity, the Navy shall implement a minimum shutdown zone of 15 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(c) For impact pile driving associated with Project 3F (Warping Wharf with Capstan), the Navy shall implement a minimum shutdown zone of 40 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(d) For impact pile driving associated with Project 4B (Small Craft Berth Site VI), the Navy shall implement a minimum shutdown zone of 20 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(e) The Navy shall deploy marine mammal observers as indicated in the final Marine Mammal Monitoring Plan and as described in § 217.255 of this chapter.

(1) For all pile driving activities, a minimum of one observer shall be stationed at the active pile driving rig or within reasonable proximity of the rig in order to monitor the shutdown zone.

(2) Monitoring shall take place from 15 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for 15 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The entire shutdown zone must be visible before it can be deemed clear of marine mammals.

(3) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(4) Monitoring shall be conducted by trained observers, who shall have no other assigned tasks during monitoring periods. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

(f) The Navy shall use soft start techniques for impact pile driving. Soft start for impact drivers requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(g) Pile driving shall only be conducted during daylight hours.

§ 217.255 Requirements for monitoring and reporting.

(a) Trained observers shall complete applicable portions of the Navy's Marine Species Awareness Training, as well as a general environmental awareness briefing conducted by Navy staff. At minimum, training shall include identification of bottlenose dolphins and relevant mitigation and monitoring requirements. All observers shall have no other construction-related tasks while conducting monitoring.

(b) For shutdown zone monitoring, the Navy shall report on implementation of shutdown or delay procedures, including whether the procedures were not implemented and why (when relevant).

(c) The Navy shall deploy additional observers to monitor disturbance zones according to the minimum requirements defined in this chapter. These observers shall collect sighting data and behavioral responses to pile driving for

marine mammal species observed in the region of activity during the period of activity, and shall communicate with the shutdown zone observer as appropriate with regard to the presence of marine mammals. All observers shall be trained in identification and reporting of marine mammal behaviors.

(1) During Project 1A (Tug Pier), Navy shall deploy a minimum of three additional marine mammal monitoring observers on a minimum of ten days of vibratory pile driving activity.

(2) During Project 2 (UMC Layberth (P–661)), Navy shall deploy a minimum of two additional marine mammal monitoring observers on a minimum of three days of impact pile driving activity.

(3) During the fiscal year 2022 phase of Project 3A (Explosives Handling Wharf #2), Navy shall deploy a minimum of three additional marine mammal monitoring observers on a minimum of three days of vibratory pile driving activity.

(4) During Project 3B ((Dry Dock) Interface Wharf), Navy shall deploy a minimum of three additional marine mammal monitoring observers on a minimum of five days of vibratory pile driving activity.

(5) During Projects 3C, 3D, and 3E (Refit Wharves #1–3), Navy shall deploy a minimum of two additional marine mammal monitoring observers on all days of pile driving activity.

(6) During Project 3F (Warping Wharf with Capstan), Navy shall deploy a minimum of three additional marine mammal monitoring observers on a minimum of two days of vibratory pile driving activity.

(7) During Project 3G (Tug Pier), Navy shall deploy a minimum of three additional marine mammal monitoring observers on a minimum of four days of vibratory pile driving activity.

(8) During Project 4A (Transit Protection System (TPS) Pier), Navy shall deploy a minimum of four additional marine mammal monitoring observers on a minimum of eight days of vibratory pile driving activity.

(9) During Project 4B (Small Craft Berth Site VI), Navy shall deploy a minimum of four additional marine mammal monitoring observers on a minimum of three days of vibratory pile driving activity.

(10) During Project 5 (Magnetic Silencing Facility Repairs), Navy shall deploy a minimum of four additional marine mammal monitoring observers on a minimum of three days of vibratory pile driving activity.

(11) During Projects 6A (Demolition of TPS Pier) and 6B (Demolition of North Trestle), Navy shall deploy a minimum of five additional marine mammal monitoring observers on a minimum of twelve days of vibratory pile driving activity.

(d) The Navy shall conduct acoustic data collection (sound source verification and propagation loss), in accordance with NMFS's guidelines, in conjunction with Project 1A (Tug Pier), Project 2 (Unspecified Minor Construction Layberth Fender Pile Modification), Project 4A (TPS Pier), and Project 5 (Magnetic Silencing Facility).

(e) Reporting:

(1) Annual reporting:

(i) Navy shall submit an annual summary report to NMFS not later than ninety days following the end of in-water work for each project. Navy shall provide a final report within thirty days following resolution of comments on the draft report.

(ii) These reports shall contain, at minimum, the following:

(A) Date and time that monitored activity begins or ends;

(B) Construction activities occurring during each observation period;

(C) Weather parameters (*e.g.,* wind speed, percent cloud cover, visibility);

(D) Water conditions (*e.g.,* sea state, tide state);

(E) Species, numbers, and, if possible, sex and age class of marine mammals;

(F) Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

(G) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

(H) Description of implementation of mitigation measures (*e.g.,* shutdown or delay);

(I) Locations of all marine mammal observations; and

(J) Other human activity in the area.

(2) Navy shall submit a comprehensive summary report to NMFS no later than 90 days following the conclusion of marine mammal monitoring efforts described in this chapter.

(3) Navy shall submit acoustic monitoring reports as necessary pursuant to § 217.255(d).

(f) Reporting of injured or dead marine mammals:

(1) In the unanticipated event that the activity defined in § 217.250 clearly causes the take of a marine mammal in a prohibited manner, Navy shall immediately cease such activity and report the incident to the Office of Protected Resources (OPR), NMFS, and to the Southeast Regional Stranding Coordinator, NMFS. Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy may not resume their activities until notified by NMFS. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Fate of the animal(s); and

(vii) Photographs or video footage of the animal(s). Photographs may be taken once the animal has been moved from the waterfront area.

(2) In the event that Navy discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Navy shall immediately report the incident to OPR and the Southeast Regional Stranding Coordinator, NMFS. The report must include the information identified in paragraph (f)(1) of this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that Navy discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities defined in § 217.250 (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy shall report the incident to OPR and the Southeast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Navy shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. Photographs may be taken once the animal has been moved from the waterfront area.

§ 217.256 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Navy must apply for and obtain a LOA.

(b) A LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If a LOA expires prior to the expiration date of these regulations, Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by a LOA, Navy must apply for and obtain a modification of the LOA as described in § 217.257.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a LOA shall be published in the **Federal Register** within thirty days of a determination.

§ 217.257 Renewals and modifications of Letters of Authorization.

(a) A LOA issued under § 216.106 of this chapter and § 217.256 for the activity identified in § 217.250 shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For a LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or that result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under § 216.106 of this chapter and § 217.256 for the activity identified in § 217.250 may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from Navy's monitoring from previous years.

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to § 216.106 of this chapter and § 217.256, a LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within thirty days of the action.

§ 217.258 [Reserved]

§ 217.259 [Reserved]

[FR Doc. 2017–11805 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170515489–7489–01]

RIN 0648–BG89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures; Compliance With Court Order

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

ACTION: Final rule.

SUMMARY: This final rule revises the Gulf of Mexico (Gulf) red snapper commercial and recreational sector allocations of the stock annual catch limit (ACL), the commercial and recreational quotas, and the recreational annual catch targets (ACTs), including ACTs for the private angling and for-hire (charter vessels and headboats) components of the recreational sector. A court order directs NMFS to reinstate the previous red snapper sector allocations, and the corresponding sector quotas (which are equivalent to the ACLs), to 51 percent commercial and 49 percent recreational. The intent of this final rule is to ensure that the regulations reflect the sector allocations and corresponding catch levels as required by the court order.

DATES: This final rule is effective on June 6, 2017.

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

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery includes red snapper and is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights for red snapper below apply as round weight.

The Secretary of Commerce approved Amendment 28 to the FMP on March 23, 2016. The purpose of Amendment 28 was to reallocate the red snapper harvest consistent with the 2014 red snapper update assessment to ensure the allowable catch and recovery benefits from a rebuilding stock were fairly and equitably allocated between the commercial and recreational sectors to achieve optimum yield. On April 28, 2016, NMFS published a final rule implementing Amendment 28 (81 FR 25576).

The final rule for Amendment 28 revised the allocation of the red snapper ACL between the commercial and recreational sectors to be 48.5 percent and 51.5 percent, respectively, and consequently revised the commercial and recreational quotas and ACLs, as well as the recreational ACTs (81 FR 25576, April 28, 2016). However, a court decision in *Guindon* v. *Pritzker,* 2017

WL 875775 (D.D.C. March 3, 2017), vacated Amendment 28 and its implementing final rule. The court order directs NMFS to reinstate the sector allocations of red snapper to 51 percent commercial and 49 percent recreational, which were in effect prior to the implementation of the Amendment 28 final rule. This results in a total commercial quota of 7,007,000 lb (3,178,000 kg) and a total recreational quota of 6,733,000 lb (3,054,000 kg). The total recreational quota is further divided to a private angling quota and ACT of 3,885,000 lb (1,762,000 kg), and 3,108,000 lb (1,410,000 kg), respectively; and a Federal for-hire component quota and ACT of 2,848,000 lb (1,292,000 kg), and 2,278,000 lb (1,033,000 kg), respectively. The recreational component quotas and ACTs are in effect through the 2022 fishing year.

All other provisions that are currently applicable to the Gulf reef fish fishery and red snapper remain unchanged as a result of this final rule.

Classification

The Assistant Administrator for NOAA Fisheries (AA) has determined that this final rule is consistent with the March 3, 2017, court order, the FMP, the Magnuson-Stevens Act, and other applicable laws.

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

Because this rulemaking is required by court order and prior notice and opportunity for public comment are not required under 5 U.S.C. 553, or any other law, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 603–605, do not apply to this final rule. In addition, because the changes required by the court order that are identified in this final rule are non-discretionary, the National Environmental Policy Act does not apply to this final rule.

The AA finds good cause to waive notice and public comment on this action because it is unnecessary and contrary to the public interest, as provided by 5 U.S.C. 553(b)(B). This action is limited in scope and ensures that the regulatory text provides accurate information to the regulated public that is consistent with a Federal court order. NMFS does not have discretion to take other action, as there is no alternative to complying with the requirements of the court order.

Furthermore, the AA finds good cause to waive the 30-day delay in effectiveness, as provided by 5 U.S.C. 553(d)(3), as such delay would be contrary to the public interest because the measures contained in this final rule are necessary to ensure that the Gulf reef fish fishery is conducted in compliance with a Federal court order. If the requirements are not implemented immediately, then red snapper harvest will not be managed in accordance with the court order.

List of Subjects in 50 CFR Part 622

Allocation, Commercial, Fisheries, Fishing, Gulf of Mexico, Recreational, Red snapper.

Dated: June 2, 2017.

Samuel D. Rauch, III,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

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

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) *Commercial quota for red snapper.* For fishing year 2017 and subsequent fishing years—7.007 million lb (3.178 million kg), round weight.

* * * * *

(2) * * *

(i) *Recreational quota for red snapper*—(A) *Total recreational quota (Federal charter vessel/headboat and private angling component quotas combined).* For fishing year 2017 and subsequent fishing years—6.733 million lb (3.054 million kg), round weight.

(B) *Federal charter vessel/headboat component quota.* The Federal charter vessel/headboat component quota applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section, will apply to the recreational sector. For fishing years 2017 through 2022—2.848 million lb (1.292 million kg), round weight.

(C) *Private angling component quota.* The private angling component quota applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section, will apply to the recreational sector. For fishing years 2017 through 2022—3.885 million lb (1.762 million kg), round weight.

* * * * *

■ 3. In § 622.41, revise paragraph (q)(2)(iii) to read as follows:

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

* * * * *

(q) * * *

(2) * * *

(iii) *Recreational ACT for red snapper*—(A) *Total recreational ACT (Federal charter vessel/headboat and private angling component ACTs combined).* The total recreational ACT is 5.386 million lb (2.443 million kg), round weight.

(B) *Federal charter vessel/headboat component ACT.* The Federal charter vessel/headboat component ACT applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector. The component ACT is 2.278 million lb (1.033 million kg), round weight, for fishing years 2017 through 2022.

(C) *Private angling component ACT.* The private angling component ACT applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector. The component ACT is 3.108 million lb (1.410 million kg), round weight, for fishing years 2017 through 2022.

[FR Doc. 2017–11804 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 108
Wednesday, June 7, 2017

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 703, 705, 708a, 709, 741, 745, 746, 747, and 750

RIN 3133–AE68

Appeals Procedures

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to adopt procedures to govern appeals to the Board that would apply to agency regulations that currently have their own embedded appeals provisions and will replace those current provisions. The procedures would apply in cases in which a decision rendered by a regional director or other program office director is subject to appeal to the Board. The proposed procedures are intended to result in greater efficiency, consistency, and better understanding of the way in which matters under covered regulations may be appealed to the Board.

Excluded from the scope of this proposal are formal adjudications required under the Administrative Procedure Act (APA) to be accompanied by ''notice and an opportunity for a hearing on the record.'' Matters that are not covered include formal enforcement actions, challenges to orders imposing prompt corrective action and matters that are within the jurisdiction of the NCUA's Supervisory Review Committee (SRC). With the issuance of this proposed rule, the Board is also proposing a new rule to govern the SRC, including the appeal to the Board of adverse determinations made by the SRC.

DATES: Comments must be received on or before August 7, 2017.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Appeals Procedures'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, General Counsel, Ross P. Kendall, Special Counsel to the General Counsel, or Benjamin M. Litchfield, Staff Attorney, at the above address, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Executive Summary

If adopted, new part 746, subpart B will govern most authorized appeals to the Board of adverse determinations made at program office levels under agency regulations that permit such an appeal. The agency's discussion of the proposed changes details which rules would be affected but the Board specifically requests comments on any other agency rules that should provide for an appeal and thus be covered under the proposal. The following actions or determinations would not be covered under the proposal because appeals relating to them are already covered under different agency procedures but the Board nonetheless seeks comments on their proposed exclusion:

- Formal enforcement actions;
- Creditor claims in liquidation, to the extent that the claimant has requested and the Board has agreed to consider the appeal formally on the record;
- Material supervisory determination within the jurisdiction of the Supervisory Review Committee, including appeals of SRC determination to the Board (addressed under a separate agency proposal issued with this proposal);
- Challenges to actions imposed under the prompt corrective action regime; and
- Appeals of matters that are delegated by rule to an officer or position below the Board for final, binding agency action.

I. Background

The Board is committed to providing credit unions, and other persons or entities that are affected by agency decisions, with an opportunity to obtain meaningful review of those decisions. At present, procedures for obtaining that review are embedded in and scattered throughout NCUA's regulations and, in many cases, are slightly different from one another. For example, time frames for seeking higher level review may differ and deadlines within which final agency action is to be rendered may also be different.[1] In this proposal, the Board has developed a more uniform set of procedures to govern those rules in which an appeal to the Board is permitted. The Board seeks to strike a balance that will afford the appellant fair consideration of the issues while avoiding procedures that are overly burdensome, time consuming, and expensive for either the petitioner or the agency. The Board invites comment on all aspects of this proposal.

The proposed procedures would apply to federal credit unions (FCUs), federally insured, state-chartered credit unions (FISCUs), or certain institution-affiliated parties (IAPs) such as officers or directors when appealing an agency determination under one of the rules to which proposed part 746, subpart B would apply. For example, FCUs and FISCUs appealing a waiver determination by a regional director under the loan participations rule

[1] *See, e.g.,* 12 CFR 701.32(b)(5), 701.34(a)(4), 741.11(d), 703.111(d).

would be subject to these procedures.[2] These procedures would also apply to an IAP appealing an adverse determination relating to a change in officials.[3]

II. Summary of Regulations Affected by Part 746

Several NCUA regulations contain appeals procedures in addition to their substantive provisions. These procedures generally lack uniformity and may be confusing for those seeking an appeal. To improve the appeals process that applies under the covered rules, the Board proposes to promulgate a more uniform set of appeals procedures contained in subpart B of part 746 to replace the current inconsistent appeals procedures that now apply to agency determinations under the affected regulations. The Board proposes to include in each of the affected rules a cross-reference to the proposed procedures to be located in subpart B of part 746.

The following is a bulleted list of the various regulations that have appeals procedures that would be replaced by the proposed procedures in subpart B of part 746.

- *Claims of a Creditor of an Insolvent FICU Under an NCUA Alternative Resolution Dispute Process.* Within 60 days from the date that NCUA's Asset Management and Assistance Center (AMAC) issues a notice of disallowance, a creditor of an insolvent FICU may file or continue a lawsuit in U.S. district court or seek review by the Board.[4] Claimants seeking Board review may request a hearing on the record in accordance with part 747 of NCUA's regulations and the formal adjudicatory procedures set forth in the APA.[5] Alternatively, a claimant seeking review by the Board may submit to an alternative dispute resolution process.[6] The proposed amendments supplant those procedures currently in part 709 of NCUA's regulations [7] and replace them with a reference to new subpart B to part 746.
- *Payment of Claims Regarding Federally Insured Shares or Deposits.* The FCU Act provides that the Board is to make payment of the insured shares or deposits as soon as possible following a liquidation.[8] The FCU Act authorizes the Board to require a proof of claim to be filed with it before making payment, and it contemplates that the Board may ''approve or reject'' such claims.[9] The FCU Act also provides that the Board may, by regulation, prescribe procedures to resolve disputed claims.[10] No conditions or limitations are imposed by statute on this resolution process, although the FCU Act does provide that the agency's final determination of an insurance claim is subject to judicial review in accordance with the relevant provisions of the APA.[11] Subpart B to part 745 currently implements this authority. The proposed amendments would replace the current procedures.
- *Chartering and Field of Membership.* NCUA's Office of Consumer Financial Protection and Access (OCFPA) is responsible for making certain determinations regarding chartering and field of membership, and these determinations are appealable to the Board. The FCU Act does not provide any specific right to a hearing on the record in connection with any of these determinations, and the procedures do not call for such a proceeding. The Board proposes to delete from NCUA's Chartering and Field of Membership Manual all descriptions of the current procedures for challenging OCFPA determinations, such as the denial of initial charter applications (including proposed senior officials), requests for expansion or spinoff, requests to add an underserved area, and conversion requests. The Board proposes that all of these procedures be governed by new subpart B to part 746.
- *Community Development Loans.* In accordance with part 705 of NCUA's regulations, qualifying credit unions may apply for loans from NCUA's Community Development Revolving Loan Fund.[12] A credit union failing to qualify may appeal to the Board. Part 705 specifies that the appeal must be taken within 30 days of the notice of disqualification, and it provides that the Board's review is limited to the threshold question of qualification.[13] The Board proposes to replace these procedures with new subpart B to part 746.
- *Golden Parachutes.* Pursuant to part 750 of NCUA's regulations, FICUs are limited in the amount of severance plan arrangements that are permissible for senior level officials.[14] Credit unions are permitted to request from the regional director or the Office of National Examinations and Supervision (ONES) Director, as appropriate, the authority to make an otherwise impermissible severance payment. If the request is denied, part 750 specifies a process by which the credit union may appeal to the Board.[15] The Board proposes to replace that process with the procedures in subpart B to part 746.
- *Investment Authority.* An FCU may appeal decisions by the regional director or ONES Director rejecting its request for expanded investment authority or authority to engage in derivatives investment activity.[16] In each case, the investment rule is silent as to the appeals procedures other than timing. The Board proposes that these appeals be governed by the procedures in new subpart B to part 746.
- *Change of Officials for Troubled or Newly Chartered Credit Unions.* A 'troubled' or newly chartered FICU may appeal an adverse determination regarding a change of an official or officials to the Board. Procedures governing this review are in § 701.14 of NCUA's regulations. The regulation refers to subpart J of part 747 of NCUA's regulations which contains explicit guidance on the appeals process.[17] There is no express statutory right to a hearing on the record in this circumstance. The Board proposes to replace the current procedures with the procedures in new subpart B to part 746. The 90-day time frame within which the Board must decide an appeal under § 701.14 would be preserved, as would other shorter time frames currently included in subpart J.
- *Conversions and Mergers.* NCUA administers the processes by which a FICU may convert to a mutual savings bank or merge into a bank.[18] Part 708a specifies that the appropriate NCUA official will oversee the methods and procedures of the conversion or merger. If the appropriate NCUA official disapproves the methods by which the vote was taken or the procedures applicable to the vote, the FICU may appeal that disapproval to the Board.[19] For conversions, a FICU may appeal a determination within 30 days and the Board must act within 90 days.[20] For mergers, a FICU may appeal a determination within 30 days and the Board must act within 120 days.[21] The Board proposes to replace these

[2] 12 CFR 701.22.
[3] 12 CFR 701.14.
[4] 12 U.S.C. 1787(b)(6).
[5] 12 U.S.C. 1787(b)(7)(A).
[6] 12 U.S.C. 1787(b)(7)(B).
[7] 12 CFR 709.8(c).
[8] 12 U.S.C. 1787(d)(1).
[9] 12 U.S.C. 1787(d)(2).
[10] 12 U.S.C. 1787(d)(3).
[11] *Id.*
[12] 12 CFR part 705.
[13] 12 CFR 705.6(f)(1).
[14] 12 CFR part 750.
[15] 12 CFR 750.6(b.).
[16] 12 CFR 703.20(d); 703.111(d); 703.114(c).
[17] 12 CFR 747.901 *et seq.*
[18] 12 CFR part 708a.
[19] 12 CFR 708a.108(d).
[20] *Id.*
[21] 12 CFR 708a.308(d).

procedures with the appeals procedures in new subpart B to part 746. The Board specifically invites comment on whether the extension of these deadlines would pose an undue hardship on credit unions converting to mutual savings banks or merging with banks.

• *Other Miscellaneous Regulations Affected by Subpart B to Part 746.* The following is a list of additional regulations that contain appeals procedures that would be replaced with the proposed appeals procedures in subpart B of part 746.

• NCUA's general lending rule.[22]
• NCUA's eligible obligations rule.[23]
• NCUA's loan participations rule.[24]
• Section 701.32 of NCUA's regulations regarding public unit and nonmember shares.[25]
• Section 701.34 of NCUA's regulations regarding the low income designation.[26]
• Section 741.11 of NCUA's regulations regarding branch offices outside the United States.[27]

III. Exclusions

New subpart B to part 746 is designed to govern appeals under the regulations addressed above. There are five areas that are excluded from the scope of the proposed rule. Each of these is discussed below.

Enforcement Actions. Appeals that involve an agency hearing on the record and the development of an initial decision by a hearing officer or administrative law judge and are governed by formal procedural requirements described in secs. 7 and 8 of the APA.[28] These formal requirements are applicable only where the Federal Credit Union Act (FCU Act)[29] specifically calls for the agency's adjudication ''to be determined on the record after opportunity for an agency hearing.''[30]

Section 206 of the FCU Act addresses enforcement actions that the NCUA may take against an insured institution or its IAPs.[31] Of these, four specifically include an opportunity for the affected entity or individual to be heard before the action becomes effective. These include actions to terminate the institution's insured status (sec. 206(c)), cease and desist actions (sec. 206(e)), removal actions (sec. 206(g)), and civil money penalties (sec. 206(k)), including any actions to obtain enforcement of an outstanding order issued under sec. 206 or under the prompt corrective action provisions in sec. 216 of the FCU Act.[32] There are two enforcement actions that may be taken by NCUA with immediate effectiveness and an agency hearing is not required (temporary cease and desist actions (sec. 206(f)) and actions to appoint a conservator (sec. 206(h)). Each of these carries with it an opportunity for the affected entity or individual to proceed immediately to court to file a challenge to the NCUA's action.

Other formal enforcement measures are found in sec. 131 of the FCU Act, which provides that FCUs convicted of money laundering, cash transaction reporting, or certain other related offenses are subject to forfeiture of their charter after a pre-termination hearing conducted on the record.[33] In addition, FICUs fined for failure to file accurate call reports may request a hearing on the record under sec. 202(a)(3) of the FCU Act.[34] Similarly, FISCUs fined for failure to submit accurate certified statements in connection with calculating National Credit Union Share Insurance Fund premium charges may request a hearing on the record under sec. 202(d)(2)(E) of the FCU Act.[35] Finally, in accordance with sec. 304(e)(3) of the FCU Act, the Board may terminate a FICU's membership in the Central Liquidity Facility (CLF) for non-compliance with statutory or regulatory requirements pertaining to the CLF, but only after providing the opportunity for an agency hearing.[36]

Actions under sec. 206(i) of the FCU Act to suspend, remove, or prohibit individuals who have engaged in certain criminal acts are treated somewhat differently. In these instances, the affected individual is removed immediately, but is given the opportunity to appear before the Board to show that his or her continued service on behalf of the FICU does not pose a threat to the interests of the credit union or its members.[37] The FCU Act directs the Board to fix a time and place at which the party may appear, in person or through counsel, to submit written material and make oral presentations and, with the agreement of the Board, oral testimony.[38]

For these types of actions, NCUA has promulgated explicit rules of procedure, which provide safeguards such as representation by counsel, document production, discovery, testimony from witnesses, an official record of the proceedings, and the development of a recommended decision by an administrative law judge for the consideration of the Board.[39] Such procedures regarding these enforcement actions would not be covered by new subpart B to part 746.

Creditor claims in liquidation that are litigated or reviewed by the Board under formal agency adjudication procedures. The FCU Act specifies that a person appealing an initial creditor claim determination by the liquidating agent of an insolvent FICU may either: (1) File an action in federal court (or renew an action that had been pending before the liquidation began) seeking a de novo judicial determination of the merits of his claim; or (2) they may request that the Board review the claim.[40] The FCU Act also specifies that, if the Board agrees to the review request, the Board must consider the claim after opportunity for a hearing on the record.[41] Part 709 of NCUA's regulations implements this provision by providing that the formal adjudication provisions set out in part 747, subpart A will govern the process.[42] These provisions remain in place and are not affected by new subpart B to part 746. However, as discussed above, alternatively a petitioner may request an appeal under the proposed provisions in subpart B to part 746.

Material Supervisory Determinations. As required by the Riegle Community Development and Regulatory Improvement Act of 1994,[43] NCUA established an SRC to provide a forum for FICUs to appeal an examiner's material supervisory determinations. Procedures followed by the SRC are described in Interpretive Ruling and Policy Statement (IRPS) 11–1, as amended by IRPS 12–1. Subjects that may be appealed to the SRC include examination ratings, the adequacy of

[22] 12 CFR 701.21(h)(3).
[23] 12 CFR 701.23(h)(3).
[24] 12 CFR 701.22(c).
[25] 12 CFR 701.32(b)(5).
[26] 12 CFR 701.34(a)(4).
[27] 12 CFR 741.11(d).
[28] 5 U.S.C. 556, 557.
[29] 12 U.S.C. 1751 *et seq.*
[30] 5 U.S.C. 554(a).
[31] 12 U.S.C. 1786.
[32] 12 U.S.C. 1790d.
[33] 12 U.S.C. 1772d.
[34] 12 U.S.C. 1782(a)(3).
[35] 12 U.S.C. 1782(d)(2)(E).
[36] 12 U.S.C. 1795c(e)(3).
[37] 12 U.S.C. 1786(i)(3).
[38] *Id.;* 12 CFR part 747, subpart D. In a case involving a challenge to an immediate removal of a bank executive by the FDIC, acting under its similar authority, the Supreme Court held that the absence of the right to a pre-removal hearing was constitutionally sufficient and did not violate the due process clause of the Fifth Amendment. *FDIC* v. *Mallen,* 486 U.S. 230 (1988).
[39] 12 CFR part 747.
[40] 12 U.S.C. 1787(b)(6), (7). The FCU Act also permits the Board to establish alternative dispute resolution procedures, which it has done in § 709.8(c). As discussed below, those procedures will be replaced by new subpart B to part 746.
[41] 12 U.S.C. 1787(b)(7).
[42] 12 CFR 709.8(b).
[43] Public Law 103–325, 108 Stat. 2160 (Sept. 23, 1994).

loan loss reserve provisions, and loan classifications on loans that are significant to the institution.[44] The Board expanded the jurisdiction of the SRC in April 2011 by adding appeals of determinations by the Director of the Office of Small Credit Union Initiatives to deny a reimbursement request made in connection with a technical assistance grant.[45] As proposed, the provisions in new subpart B to part 746 would not apply to issues that are reviewable by the SRC. Along with the issuance of this proposed rule, the Board is seeking comments on a separate proposal that contains significant changes to the SRC, including how adverse determinations made by the SRC may be appealed to the Board. If adopted, those proposed changes to the SRC would be contained in a new subpart A to part 746.

Prompt Corrective Action. Under the FCU Act, FICUs are subject to mandatory and discretionary supervisory actions, based on their net worth position.[46] Mandatory actions are not subject to appeal, but discretionary actions are. Under the FCU Act, these discretionary measures are considered ''material supervisory determinations'' and could have been made subject to the jurisdiction of the SRC.[47] The FCU Act, however, permits the Board to establish a separate appeals process regarding these determinations. Exercising this authority, the Board determined previously that challenges to determinations made by a regional director or ONES Director and imposed under the prompt corrective action regime are more appropriately covered by the procedures in subpart L to part 747.[48] These procedures are informal but specialized, ranging from the submission of written materials (in the case of orders imposing discretionary supervisory action) [49] to requesting a hearing before a presiding officer designated by the Board (for orders reclassifying a credit union on safety and soundness criteria, as well as orders to dismiss a director or senior executive officer). In the context of discretionary supervisory actions, the Board will respond to the written challenge.[50] In the context of challenges to reclassification and dismissal of officials or directors, the rules provide for a hearing at which the appellant is entitled to be represented by counsel, to introduce relevant documents, and to make oral presentations. Witness testimony is permissible with the consent of the presiding officer.[51] The hearing is recorded, and the appellant is entitled to receive a transcript upon request and payment of the cost thereof. The presiding officer makes a recommendation to the Board, which has 60 days in which to decide the issue.[52]

Because the determinations made by a regional director or the ONES Director and imposed under the prompt corrective action regime are addressed separately, they are not subject to proposed subpart B to part 746. Similar determinations involving exclusively corporate credit unions are set forth in subpart M to part 747 and are likewise unaffected by this proposal. However, the Board seeks specific comments as to whether appeals provisions relating to prompt corrective action are sufficient and whether such provisions should be consolidated with the proposed part 746.

Other Exclusions. By rule, appeals of adverse determinations under the Freedom of Information Act are decided by the General Counsel.[53] The General Counsel also decides on requests made under NCUA's *Touhy* regulation [54] and appeals of initial determinations made under the Privacy Act.[55] None of these areas would be affected by this proposed rule but the Board seeks comments on their exclusion.

The proposed procedures in subpart B to part 746 would also not affect how consumer complaints are processed by the NCUA.[56] On September 30, 2010, the Board delegated the authority to examine and supervise federal credit unions for compliance with consumer laws and regulations to OCFPA. As a result of this delegation, consumers may not appeal determinations by OCFPA's Director of the Division of Consumer Affairs to the Board. The Board invites comment on this exclusion.

IV. Section Analysis

Subpart B to Part 746—Informal Appeals Procedures

The Board is proposing to add subpart B to part 746 to address procedures that govern informal appeals of agency decisions under specific regulations. As discussed above, the proposed rule would amend existing NCUA regulations to include a cross-reference to the procedures contained in this subpart. The Board proposes to adopt these procedures to improve and streamline the appeals process as it applies to decisions under the covered rules.

Section 746.201—Authority, Purpose, and Scope

The first section of proposed subpart B to part 746 states the Board's authority for issuing the rule as well as its scope and purpose.

201(a) Authority

The Board is issuing this proposed rule pursuant to authority granted to it by secs. 120, 207, and 209 of the FCU Act. Section 120 of the FCU Act is a general grant of regulatory authority over FCUs. Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations. Section 209 of the FCU Act is a plenary grant of regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.

Section 746.201(b) Purpose

As stated above, the purpose of the proposed rule is to provide uniform procedures for appeals to the Board under affected agency regulations. The Board believes the creation of uniform rules will help ensure that appellants receive appropriate due process and that agency decisions are made in a prompt and efficient manner.

Section 746.201(c) Scope

Paragraph (c) first lists each of the regulations with current appeal procedures that would be covered under the new rule. The section would also clarify that there are five categories of agency actions that are excluded from the scope of the rule. Because this rule would only apply to informal agency adjudications, formal adjudications would be excluded. Likewise, creditor claim appeals where the claimant has requested a hearing on the record would be excluded. In addition, the rule would not cover appeals of prompt corrective action determinations or material

[44] *Id.*

[45] 76 FR 3674 (Jan. 20, 2011).

[46] 12 U.S.C. 1790d; 12 CFR part 702.

[47] 12 U.S.C. 1790d(k).

[48] *See* 12 CFR part 747, subpart L.

[49] The affected credit union also has the option under this procedure to request the recommendation of NCUA's Ombudsman concerning the matters at issue.

[50] 12 CFR 747.2002.

[51] The presiding officer is an individual designated by the NCUA Board to hold informal hearings under subpart L to part 747.

[52] 12 CFR 747.2003, 743.2004.

[53] 12 CFR 792.28.

[54] *Touhy* regulations prohibit the unauthorized release of information by current (and typically former) agency employees and provide a procedure for centralized agency decision-making concerning how the agency will respond to a subpoena or other request for testimony or documents served on a current or former agency employee. *See United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462, 468 (1951); *see also* 5 U.S.C. 301.

[55] 12 CFR 792.46, 792.59.

[56] NCUA's current consumer complaint procedures are set forth in NCUA Letter to Credit Unions 15–CU–04 (June 2015).

supervisory determinations appealable to NCUA's SRC. Finally, the rule would not cover the appeal of FOIA determinations, Privacy Act determinations, or determinations made under NCUA's *Touhy* regulation.

Section 746.202—Definitions

In § 746.202, the Board proposes to define certain terms. Unless otherwise defined, the Board expects FICUs and other affected parties to interpret terms or phrases according to their plain meaning.

Initial Agency Determination

The proposed rule would define ''initial agency determination'' to clarify that the rule only applies to certain agency decisions made by personnel below the Board level. The rule does not apply to any action that results in the formulation of a rule, regulation, guidance document, or policy statement.

Petitioner

The term ''petitioner'' would refer to a natural person or legal entity seeking review of an initial agency determination. Several of NCUA's regulations use different terminology when referring to parties appealing determinations to the Board. For example, a party appealing the denial a creditor claim is a ''claimant,'' [57] while a party appealing a denial of share insurance coverage is referred to as an ''accountholder.'' [58] Rather than use all of these different terms, the Board is proposing to adopt a uniform term to describe all classes of individuals or legal entities appealing determinations to the Board.

Program Office

Similarly, the Board is proposing to adopt a uniform term ''program office'' to refer to all offices within NCUA responsible for making initial agency determinations. Several NCUA offices below the Board level are responsible for administering various NCUA regulations. For example, chartering and field of membership determinations are made by OCFPA, while waivers and safety and soundness determinations are made by the appropriate regional office or ONES. Rather than use different terminology, the Board is proposing to adopt ''program office'' as a uniform term to describe the different NCUA offices responsible for making initial agency determinations.

[57] *See* 12 CFR 709.7.

[58] *See* 12 CFR 745.202.

Section 746.203—Request for Reconsideration

Proposed § 746.203 would set forth procedures for requesting reconsideration from a program office prior to filing an appeal with the Board. Several regulations issued by the NCUA Board permit affected parties to request reconsideration. This process is a useful, relatively inexpensive, and efficient method of resolving most disputes. It also limits the overall number of matters appealed to the Board. Therefore, the Board proposes to make this optional procedure available for any matter that could otherwise be appealed to the Board under part 746, subpart B and seeks comments on this approach.

Section 746.203(a) Reconsideration

The reconsideration process promotes greater efficiency by allowing matters to be resolved at the program office level where possible. In general, the Board anticipates that the disposition of a request for reconsideration will either resolve the matter entirely or clarify the issues that remain for resolution at the Board level. Ordinarily, the Board anticipates that one request for reconsideration will be sufficient, and that the next appropriate step for a party still seeking resolution of the issues will be to appeal to the Board. The rule recognizes, however, that there may be cases involving extenuating circumstances, such as the discovery of new evidence or documentation, and that a second request for reconsideration may be appropriate in such circumstances. Absent such circumstances, a second request for reconsideration would be treated as an appeal to the Board.

Section 746.203(e); (f); (g) Determination of Program Office; Notice of Determination; Failure To Make a Determination

Paragraph (e) would require the program office to issue a written determination within 30 calendar days of receiving a first request for reconsideration. Paragraph (f) would specify that the written determination must include a description of any right to appeal a determination to the Board. In the case of creditor claims, paragraph (f)(2) would require a description of the right to file or continue a lawsuit in federal court.

In the Board's experience, 30 calendar days is a sufficient amount of time for a program office to consider new information and reach a determination after reconsideration. If the program office fails to make a determination within 30 calendar days, proposed paragraph (g) would treat the request for reconsideration as if it had been denied. To avoid undue prejudice, the denial of a request for reconsideration is treated as an initial agency determination for purposes of the deadline to file an appeal with the Board in proposed § 746.204. If the petitioner obtains new information or there are reasonable, mitigating circumstances that precluded the presentation of existing information in connection with the first request for reconsideration, as determined solely by the program office in its reasonable judgment, the petitioner may request a second reconsideration prior to a Board appeal.

Section 746.204—Appeal to the Board

Proposed § 746.204 would state the procedures for filing an appeal with the Board. The provision would also list the information that must be included as part of the appeal. These requirements would be similar to the current requirements for creditor claims and share insurance claims, including the requirement that any appeal must be filed with the Secretary of the Board within 60 calendar days of the date of the initial agency determination or, if applicable, any determination following a request for reconsideration. However, the Board may grant extensions for timely filing in response to a petitioner's request base on the petitioner's reasonable, extenuating circumstances.

Section 746.204(c) Failure To File a Timely Appeal

In order to establish subject matter jurisdiction, federal courts typically require affected parties to exhaust administrative remedies.[59] For example, in creditor and share insurance cases, the failure to exhaust administrative remedies is a jurisdictional bar preventing affected parties from seeking judicial review of their claims in federal court.[60] Proposed paragraph (c) would clarify that, absent mitigating circumstances, a petitioner who fails to file a timely request for an appeal would be considered to have waived claims that may be adjudicated under part 746, subpart B.

204(d); (e); (f) Content of Request; Burden of Proof; Amending or Supplementing the Appeal

Proposed paragraph (d) would outline the content requirements for an appeal

[59] *See Avocados Plus, Inc.* v. *Veneman,* 370 F.3d 1243 (D.C. Cir. 2004); *Volvo GM Heavy Truck Corp.* v. *Dep't of Labor,* 118 F.3d 205, 209–211 (4th Cir. 1997).

[60] *See Freeman* v. *FDIC,* 56 F.3d 1394 (D.C. Cir. 1994).

to the Board. To ensure the Board is able to review an appeal in a timely and efficient manner, this paragraph would require a petitioner to provide a statement of the facts on which an appeal is based, any objections to the basis on which the program office made its initial determination, and any additional evidence that may be relevant to the matter that was not previously provided to the program office. Proposed paragraph (e) would address the burden of proof at the appeal level.

Proposed paragraph (f) would describe the right of the petitioner to file supplemental materials within 45 calendar days of filing an appeal. In addition to the authority of the Board to request additional information, the petitioner may amend or supplement the written record. If the petitioner does amend or supplement the record, the Board is permitted to request additional information. A petitioner's failure to provide information requested by the Board could serve as a basis for denial of an appeal.

Section 746.204(g) Request for Oral Hearing

Section 746.204(g) would specify that a petitioner may request an oral hearing before the Board and provides cross-references to proposed § 746.207, which sets out the procedures that govern oral hearings. The petitioner may request to appear before the Board, in person or through or with counsel. This request should be filed with the initial appeal documents. On his or her own initiative or at the request of the petitioner, the Chairman may in his or her sole discretion allow for a hearing to be conducted via teleconference or video conference facilities.

Section 746.205—Preliminary Considerations Regarding the Appeal

This section of the proposed rule describes preliminary internal processes for reviewing appeals. Additional information from the petitioner may be requested by the agency in order to provide the Board with a more full and complete administrative record but such requests must be reasonable and timely to facilitate the processing of the appeal, not to delay it.

Section 746.206 Administration of the Appeal

Proposed § 746.206 would set out the standard procedures followed by the Board when it receives a timely appeal. These proposed procedures would be, in some respects, a codification of informal practices that the Board currently follows when reviewing appeals.

Section 746.206(a) Review by the Special Counsel

Proposed paragraph (a) would describe procedures followed by the Special Counsel when reviewing an appeal. After receiving a timely appeal, the Special Counsel would be responsible for gathering relevant evidence from the appropriate program office and conducting an independent review of these materials along with any materials provided by the petitioner. The Special Counsel would then provide a written recommendation to the Board and, at the request of the Board, make an oral presentation in an official meeting concerning the recommendation. The duties of the Special Counsel under this provision must be fulfilled in a timely manner and all requests for additional information must be reasonable, to facilitate the appeal.

Section 746.206(b) Determination on Appeal

Proposed paragraph (b) would require the Board to render a written decision stating the reasons for the decision within 90 calendar days from the date of receipt of an appeal by the Secretary of the Board. Such a decision would constitute a final agency action permitting the petitioner to seek review in federal court under the APA. In the discretion of the Chairman, the time for the Board's decision may be extended as the Chairman may consider necessary or appropriate for a full and fair consideration of the issues, including accommodation of an oral hearing. If the Board does not reach a decision within 90 calendar days from the date of receipt, or within any extension of time as established by the Chairman, the appeal will be deemed to be denied. The deadline will help ensure that the Board has adequate time to decide a matter on appeal while avoiding any undue prejudice to petitioners from unnecessary delays.

Section 746.207—Procedures for Oral Hearing

This section of the proposed rule sets out the process for requesting and conducting an oral hearing. The Board recognizes that, in some unusual cases, the opportunity to make a presentation in person is necessary or useful to assure a thorough understanding of the issues in a case.

Section 746.207(a); (b); (c) Request for Oral Hearing; Action on Request; Effect of Denial

Paragraph (a) would describe the process for requesting an oral hearing. The request would accompany the notice of appeal itself, set out in a separate document entitled ''Request for Oral Hearing.'' The petitioner must show good cause as to why the NCUA should hold an oral hearing, stating reasons why the case cannot be presented adequately with only written statements. Proposed paragraph (b) would specify that an oral hearing would be scheduled provided at least one Board member agrees to hear the appeal, but specifies that the action by a Board member to approve an oral hearing must be taken within 20 days of the receipt of the appeal by the Board Secretary. The Special Counsel would notify the petitioner of the Board's determination whether to approve a request for an oral hearing. Proposed paragraph (c) would specify that, in the event the request does not receive the support of at least one Board member, the appeal will proceed on the basis of the written record.

Section 746.207(d) Procedures for Oral Hearing

(d)(1) Scheduling; Location

Oral hearings will be held at NCUA headquarters in Alexandria, Virginia, except that on his or her own initiative or at the request of the petitioner, the Chairman may in his or her sole discretion allow for a hearing to be conducted via teleconference or video conference facilities.

(d)(2) Appearances; Representation

At an oral hearing, the petitioner would be permitted to be represented by not more than two officers, employees, or other representatives (including counsel) unless the Chairman, in his or hers sole discretion, allows a greater number of participants. This proposed paragraph recognizes the general right granted in the APA for individuals appearing in person before an agency to be ''accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative[s].'' [61] In general, courts have found the right to counsel to be a fundamental aspect of procedural due process in both informal and formal agency adjudications.[62]

[61] 5 U.S.C. 555(b).

[62] *See Goldberg* v. *Kelly,* 397 U.S. 254, 270 (1970) (''The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. We do not say that counsel

Continued

(d)(3) Conduct of Oral Hearing

Proposed paragraph (d)(3) addresses procedures at the oral hearing and would permit the use of presentations based on written evidence submitted as part of the appeal documents filed with the Secretary of the Board. The petitioner would be given the opportunity to present first, followed by a representative of the program office. The petitioner would be permitted to rebut information presented by the program office.

V. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under $100 million in assets). This proposed rule only provides enhanced voluntary opportunities for credit unions to appeal agency determinations. Accordingly, it will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden. 44 U.S.C. 3507(d). For purposes of the PRA, a paperwork burden may take the form of a either a reporting or a recordkeeping requirement, both referred to as information collections. Proposed new Subpart B to part 746 establishes procedures by which credit unions or other entities affected by an initial decision by an NCUA program office may seek and obtain the review of that decision by the NCUA Board.

The rule proposes to consolidate the information collection requirements of the informal appeals process under a new part; as such, NCUA intends to remove the burden allocated to the appeals process currently under OMB control numbers 3133–0141, –0127, –0114, –0117, –0133, and –0138, upon promulgation of this new rule, and requests a new OMB control number for the information collection requirements under part 746.

Estimated Number of Respondents:

Requests for Reconsideration: 24; Appeals: 10.

Frequency:

Requests for Reconsideration: 1; Appeals: 1.

Estimated Burden per Response:

Requests for Reconsideration: 10 hours; Appeals: 20 hours.

Estimated Annual Burden:

Requests for Reconsideration: 240 hours; Appeals: 200 hours.

Total: 440 hours.

The PRA and OMB regulations require that the public be provided an opportunity to comment on the paperwork requirements, including an agency's estimate of the burden of the paperwork requirements. The Board invites comment on: (1) Whether the paperwork requirements are necessary; (2) the accuracy of NCUA's estimates on the burden of the paperwork requirements; (3) ways to enhance the quality, utility, and clarity of the paperwork requirements; and (4) ways to minimize the burden of the paperwork requirements.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

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

Executive Order 13132

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

List of Subjects

12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 703

Credit unions, Investments.

12 CFR Part 705

Credit unions, grants, loans, revolving fund.

12 CFR Part 708a

Credit unions, Reporting and recordkeeping requirements

12 CFR Part 709

Claims, Credit unions.

12 CFR Part 741

Credit unions, Reporting and recordkeeping requirements, Share insurance.

12 CFR Part 745

Administrative practice and procedure, Claims, Credit unions, Share insurance.

12 CFR Part 746

Administrative practice and procedure, Claims, Credit Unions, Investigations.

12 CFR Part 747

Administrative practice and procedure, Claims, Credit unions, Investigations.

12 CFR Part 750

Credit unions, Golden parachute payments, Indemnity payments.

By the National Credit Union Administration Board, this 25th day of May, 2017.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board proposes to amend 12 CFR parts 701, 703, 705, 708a, 709, 741, 745, 747, and 750; and to amend 12 CFR part 746, as proposed to be added elsewhere in this issue of the **Federal Register**, as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

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

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

■ 2. Revise § 701.14(e) to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

must be provided at the pre-termination hearing, but only that the recipient must be allowed to retain an attorney if he so desires. Counsel can help delineate the issues, present factual contentions in an orderly manner, conduct cross-examination, and generally safeguard the interests of the recipient.'').

(e) *Notice of disapproval.* NCUA may disapprove the individual serving as a director, committee member or senior executive officer if it finds that the competence, experience, character, or integrity of the individual with respect to whom a notice under this section is submitted indicates that it would not be in the best interests of the members of the credit union or of the public to permit the individual to be employed by, or associated with, the credit union. The Notice of Disapproval will advise the parties of their rights to request reconsideration from the regional director and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 3. Revise § 701.21(h)(3) to read as follows:

§ 701.21 Loans to Members and Lines of Credit to Members.

* * * * *

(h) * * *

(3) A regional director will provide a written determination on a waiver request within 45 calendar days after receipt of the request; however, the 45-day period will not begin until the requesting credit union has submitted all necessary information to the regional director. If the regional director does not provide a written determination within the 45-day period the request is deemed denied. A credit union may request the regional director to reconsider a denied waiver request and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

■ 4. Revise § 701.22(c) to read as follows:

§ 701.22 Loan participations.

* * * * *

(c) To seek a waiver from any of the limitations in paragraph (b) of this section, a federally insured credit union must submit a written request to its regional director with a full and detailed explanation of why it is requesting the waiver. Within 45 calendar days of receipt of a completed waiver request, including all necessary supporting documentation and, if appropriate, any written concurrence, the regional director will provide the federally insured credit union a written response. The regional director's decision will be based on safety and soundness and other considerations; however, the regional director will not grant a waiver to a federally insured, state-chartered credit union without the prior written concurrence of the appropriate state supervisory authority. A federally insured credit union may request the regional director to reconsider a denied waiver request and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

■ 5. Revise § 701.23(h)(3) to read as follows:

§ 701.23 Purchase, sale, and pledge of eligible obligations.

* * * * *

(h) * * *

(3) *Appeal to NCUA Board.* A federal credit union may request the regional director to reconsider a denied request for expanded authority and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 6. Revise § 701.32(b)(5) to read as follows:

§ 701.32 Payment on shares by public units and nonmembers.

* * * * *

(b) * * *

(5) The regional director will provide a written determination on an exemption request within 30 calendar days after receipt of the request. The 30-day period will not begin to run until all necessary information has been submitted to the regional director. A credit union may request the regional director to reconsider a denied exemption request and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

■ 7. Revise § 701.34(a)(4) to read as follows:

§ 701.34 Designation of low income status; Acceptance of secondary capital accounts by low-income designated credit unions.

(a) * * *

(4) If NCUA determines a low-income designated federal credit union no longer meets the criteria for the designation, NCUA will notify the federal credit union in writing, and the federal credit union must, within five years, meet the criteria for the designation or come into compliance with the regulatory requirements applicable to federal credit unions that do not have a low-income designation. The designation will remain in effect during the five-year period. If a federal credit union does not requalify and has secondary capital or nonmember deposit accounts with a maturity beyond the five-year period, NCUA may extend the time for a federal credit union to come into compliance with regulatory requirements to allow the federal credit union to satisfy the terms of any account agreements. A federal credit union may request NCUA to reconsider a determination that it no longer meets the criteria for the designation and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

■ 8. Appendix B to part 701 is amended as follows:

■ a. Section VII.D of Chapter 1 is revised.

■ b. Section II.C.5 of Chapter 2 is revised.

■ c. Section III.C.5 of Chapter 2 is revised.

■ d. Section IV.C.5 of Chapter 2 is revised.

■ e. Section V.C.5 of Chapter 2 is revised.

■ f. Section IV.B of Chapter 3 is revised.

■ g. Section II.C.6 of Chapter 4 is revised.

■ h. Section II.D—Application for a Federal Charter of Chapter 4 is redesignated as Section II.D.2—Application for a Federal Charter and revised.

■ i. Section III.D.6 of Chapter 4 is revised.

The revisions read as follows:

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

Chapter 1—Federal Credit Union Chartering

VII.D—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a charter application, in whole or in part, that decision may be appealed to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the prospective group may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial.

* * * * *

Chapter 2—Field of Membership Requirements for Federal Credit Unions

* * * * *

II.C.5—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a field of membership expansion request, merger, or spin-off, that decision may be appealed to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial.

* * * * *

III.C.5—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a field of membership expansion request, merger, or spin-off is denied, that decision may be appealed to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial or explain extenuating circumstances that precluded the inclusion of existing material evidence or information that should have been filed with the request for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A petitioner may seek a second reconsideration based on new material evidence or information or extenuating circumstances that precluded the inclusion of such information in the previous request.

* * * * *

IV.C.5—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a field of membership expansion request, merger, or spin-off, that decision may be appealed to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial or explain extenuating circumstances that precluded the inclusion of existing material evidence or information that should have been filed with the request for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A petitioner may seek a second reconsideration based on new material evidence or information or extenuating circumstances that precluded the inclusion of such information in the previous request.

* * * * *

V.C.5—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a field of membership expansion request, merger, or spin-off, that decision may be appealed to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial or explain extenuating circumstances that precluded the inclusion of existing material evidence or information that should have been filed with the request for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A petitioner may seek a second reconsideration based on new material evidence or information or extenuating circumstances that precluded the inclusion of such information in the previous request.

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Chapter 3—Low-Income Credit Unions and Credit Unions Serving Underserved Areas

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IV.B—Appeal of Office of Consumer Financial Protection and Access Director Decision

* * * * *

If the Office of Consumer Financial Protection and Access Director denies an ''underserved area'' request, the federal credit union may appeal that decision to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial or explain extenuating circumstances that precluded the inclusion of existing material evidence or information that should have been filed with the request for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A petitioner may seek a second reconsideration based on new material evidence or information or extenuating circumstances that precluded the inclusion of such information in the previous request.

* * * * *

Chapter 4—Charter Conversions

* * * * *

II.C.6—Appeal of the Office of Consumer Financial Protection and Access Director Decision

If a conversion to a federal charter is denied by the Office of Consumer Financial Protection and Access Director, the applicant credit union may appeal that decision to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. A request for reconsideration should contain new and material evidence addressing the reasons for the initial denial or explain extenuating circumstances that precluded the inclusion of existing material evidence or information that should have been filed with the request for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A petitioner may seek a second reconsideration based on new material evidence or information or extenuating circumstances that precluded the inclusion of such information in the previous request.

* * * * *

II.D.2—Application for a Federal Charter

When the Office of Consumer Financial Protection and Access Director has received evidence that the board of directors has satisfactorily completed the actions described above, the federal charter and new Certificate of Insurance will be issued.

The credit union may then complete the conversion as discussed in the following section. A credit union may request the Office of Consumer Financial Protection and Access Director to reconsider a denial of a conversion application and/or appeal a denial to the NCUA Board. For more information, refer to Section II.C.6 of this chapter.

* * * * *

III.D.6—Appeal of Office of Consumer Financial Protection and Access Director Decision

If the Office of Consumer Financial Protection and Access Director denies a conversion to a state charter, the federal credit union may appeal that decision to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Financial Protection and Access Director for reconsideration. The Office of Consumer Financial Protection and Access Director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the application is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the Office of Consumer Financial Protection and Access Director.

* * * * *

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

■ 9. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

■ 10. Revise § 703.20(d) to read as follows:

§ 703.20 Request for additional authority.

* * * * *

(d) *Appeal to NCUA Board.* A federal credit union may request the regional director to reconsider any part of the determination made under paragraph (c) and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 11. Revise § 703.111(d) to read as follows:

§ 703.111 NCUA approval.

* * * * *

(d) *Right to appeal.* A federal credit union may request the regional director to reconsider a determination made under paragraph (a) or (c) of this section and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 12. Revise § 703.112(c) to read as follows:

§ 703.112 Applying for additional products or characteristics.

* * * * *

(c) A federal credit union may request the regional director to reconsider a denial of an application for additional products or characteristics and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 13. Revise § 703.114(c) to read as follows:

§ 703.114 Regulatory violation.

* * * * *

(c) A federal credit union may request the regional director to reconsider a revocation of derivatives authority or an order to terminate existing derivatives positions and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN FUND ACCESS FOR CREDIT UNIONS

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

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

■ 15. Revise § 705.10(a) to read as follows:

§ 705.10 Appeals.

(a) *Appeals of non-qualification.* A qualifying credit union whose application for a loan or technical assistance grant has been denied under § 705.7(f) for failure to satisfy any of the conditions set forth in § 705.7(c), including any additional criteria set forth in the related notice of funding opportunity, may request the Director of the Office of Small Credit Union Initiatives to reconsider the denial and/or appeal that decision to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter, subject to the following limitations:

(1) *Scope.* The scope of the Board's review is limited to the threshold question of qualification and not the issue of whether, among qualified applicants, a particular loan or technical assistance grant is funded.

(2) *Appeals procedures inapplicable.* The foregoing procedure applies during an open period in which funds are available and NCUA has called for applications. NCUA will reject any application submitted during a period in which NCUA has not called for applications, except for applications submitted under § 705.8. Such rejections are not subject to appeal or review by the NCUA Board.

* * * * *

PART 708a—BANK CONVERSIONS AND MERGERS

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

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

■ 17. Revise § 708a.108(d) to read as follows:

§ 708a.108 NCUA oversight of methods and procedures of membership vote.

* * * * *

(d) A converting credit union may request the regional director to reconsider a determination regarding the methods and procedures of the membership vote and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 18. Revise § 708a.304(h) to read as follows:

§ 708a.304 Notice to NCUA and request to proceed with member vote.

* * * * *

(h) *Appeal of adverse decision.* If the regional director disapproves a merger proposal, the credit union may request reconsideration and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 19. Revise § 708a.308(d) to read as follows:

§ 708a.308 NCUA approval of merger.

* * * * *

(d) A merging credit union may request the regional director to reconsider the disapproval of a merger proposal and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

■ 20. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1787, 1788, 1789, 1789a.

■ 21. Revise § 709.7 to read as follows:

§ 709.7 Procedures for agency review or judicial determination of claims.

(a) *General.* A claimant may either request agency review of an initial determination of the liquidating agent to disallow a claim or seek a de novo judicial determination of claims. In order to receive agency review of an initial determination, a claimant must request an administrative appeal before the NCUA Board. In order to seek a judicial determination, a claimant must file suit (or continue an action

commenced before the appointment of the liquidating agent) in the district or territorial court of the United States for the district within which the credit union's principal place of business is located or the United States District Court for the District of Columbia.

(b) *Procedures for agency review.* A claimant requesting an administrative appeal may request a hearing on the record conducted pursuant to the procedures set forth in subpart A of part 747 of this chapter. The determination of whether to agree to a request for a hearing on the record shall rest solely with the NCUA Board, which shall notify the claimant of its decision in writing. Alternatively, a claimant may request an appeal before the NCUA Board pursuant to the procedures set forth in subpart B to part 746 of this chapter.

(c) *Deadline to request agency review or file suit.* A claimant must request agency review of an initial determination or file suit (or continue an action commenced before the appointment of the liquidating agent) within 60 days from the mailing of the initial determination or the expiration of the time period for the liquidating agent to determine claims under § 709.6(c), whichever is earlier. A request for a hearing on the record will suspend the 60-day period for filing a lawsuit (or continuing an action commenced before the appointment of the liquidating agent) from the date of the claimant's request to the date of the NCUA Board's decision regarding that request. If a claimant fails to either request a hearing on the record or an appeal to the Board or file suit (or continue an action commenced before the appointment of the liquidating agent) within the 60-day period, any disallowance of claims shall be final and the claimant shall have no further rights or remedies with respect to such claims.

(d) *Reconsideration.* Prior to requesting agency review or filing or continuing a lawsuit, a claimant may request reconsideration of the initial determination of the liquidating agent in accordance with the procedures set forth in subpart B to part 746 of this chapter. The deadline to request agency review or file suit (or continue an action commenced before the appointment of the liquidating agent) in paragraph (c) of this section will be suspended from the date of the claimant's request to the date of the liquidating agent's decision regarding that request.

■ 22. Remove § 709.8 and redesignate §§ 709.9 through 709.13 as §§ 709.8 through 709.12, respectively.

PART 741—REQUIREMENTS FOR INSURANCE

■ 23. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 24. Revise § 741.11(d) to read as follows:

§ 741.11 Foreign branching.

* * * * *

(d) *Revocation of approval.* A state regulator that revokes approval of the branch office must notify NCUA of the action once it issues the notice of revocation. The regional director may revoke approval of the branch office for failure to follow the business plan in a material respect or for substantive and documented safety and soundness reasons. If the regional director revokes the approval, the credit union will have six months from the date of the revocation letter to terminate the operations of the branch. The credit union can request reconsideration of the revocation and/or appeal this revocation to the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

* * * * *

PART 745—SHARE INSURANCE AND APPENDIX

■ 25. The authority citation for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; title V, Pub. L. 109–351, 120 Stat. 1966.

■ 26. Revise § 745.201(c) to read as follows:

§ 745.201 Processing of insurance claims.

* * * * *

(c) *Reconsideration and appeals.* An accountholder may request reconsideration from the Liquidating Agent of the initial determination and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

■ 27. Remove § 745.202 and redesignate § 745.203 as § 745.202.

PART 746—APPEALS PROCEDURES THAT DO NOT BY LAW REQUIRE A BOARD HEARING

■ 28. The authority citation for part 746 continues to read as follows:

Authority: 12 U.S.C. 1766, 1787, and 1789.

■ 29. Add subpart B to part 746 to read as follows:

Subpart B—Appeals Procedures That Do Not by Law Require a Board Hearing

Sec.

746.201 Authority, purpose, and scope.
746.202 Definitions.
746.203 Request for reconsideration.
746.204 Appeal to the Board.
746.205 Preliminary considerations regarding the appeal.
746.206 Administration of the appeal.
746.207 Procedures for oral hearing.

Subpart B—Appeals Procedures That Do Not by Law Require a Board Hearing

§ 746.201 Authority, purpose, and scope.

(a) *Authority.* This part is issued pursuant to sections 120, 207, and 209 of the Federal Credit Union Act (12 U.S.C. 1766, 1787, and 1789).

(b) *Purpose.* Part 746, subpart B provides generally uniform procedures by which petitioners may appeal initial agency determinations to the NCUA Board under this part.

(c) *Scope.* This part covers the appeal of initial agency determinations by a program office which the petitioner has a right to appeal to the NCUA Board under the following regulations: 701.14(e), 701.21(h)(3), 701.22(c), 701.23(h)(3), 701.32(b)(5), 701.34(a)(4), Appendix B to part 701, Chapters 1–4, §§ 703.20(d), 703.111(d), 703.112(c), 703.114(c), 705.10(a), 708a.108(d), 708a.304(h), 708a.308(d), 709.7, 741.11(d), 745.201(c), subpart J to part 747, and § 750.6(b).

(d) This part does not apply to:

(1) Actions by the agency to develop regulations, policy statements, or guidance documents;

(2) Formal enforcement actions, the review of material supervisory determinations that come under the jurisdiction of NCUA's Supervisory Review Committee, or the appeal of any agency determination made pursuant to part 792 of this chapter;

(3) Challenges to determinations under the prompt corrective action regime in parts 702 and 704 of this chapter and subparts L and M to part 747; and

(4) Creditor claims arising from the liquidation of an insured credit union to the extent that the creditor has requested, and the NCUA Board has agreed, for the claim to be handled through a hearing on the record pursuant to 12 U.S.C. 1787(b)(7)(A) and subpart A of part 747 of this chapter.

§ 746.202 Definitions.

For purposes of this part:

Appeal means a process by which a petitioner may obtain the review by the Board of an initial agency determination.

Board means the NCUA Board.

Initial agency determination means an agency action taken at a level below the Board with respect to an application, request, claim, or other matter in which a determination of rights or resolution of issues is rendered and the party affected by the determination has been provided with a right to appeal the determination to the NCUA Board. The initial agency determination shall notify the Petitioner of the right to request reconsideration or to file an appeal with the Board, and shall include a description of applicable filing deadlines and time frames for agency responses. Agency determinations involving the formulation of a regulation, guidance document, or policy statement are excluded from this definition.

Oral hearing means an opportunity, granted at the sole discretion of the Board, by which a petitioner may make an oral presentation to the Board concerning issues pertinent to an appeal.

Petitioner means the person or entity seeking Board review of an initial agency determination.

Program office means the office within NCUA responsible for making an initial agency determination.

Special Counsel to the General Counsel means an individual (referred to herein as the ''Special Counsel'') within NCUA's Office of General Counsel charged with administering appeals in accordance with the procedures set forth in this part.

§ 746.203 Request for reconsideration.

(a) *Reconsideration.* Prior to submitting an appeal in accordance with § 746.204, the petitioner may in its sole discretion make a written request to the appropriate program office to reconsider the initial agency determination.

(b) *Deadline to file.* A request for reconsideration must be sent to the appropriate program office within 30 calendar days of the date of the initial agency determination. A petitioner who does not file a request for reconsideration in a timely manner is considered to have waived the right to request reconsideration.

(c) *Special rule regarding change in officials.* Notwithstanding paragraph (a) of this section, a request for reconsideration of an initial agency determination disapproving an individual serving as a director, committee member or senior executive officer pursuant to § 701.14 of this chapter must be sent to the appropriate program office within 15 calendar days of the date of the initial agency determination.

(d) *Content of request.* Any request for reconsideration must include:

(1) A statement of the facts on which the request for reconsideration is based;

(2) A statement of the basis for the initial agency determination to which the petitioner objects and the alleged error in such determination; and

(3) Any other support or evidence relied upon by the petitioner which was not previously provided to the appropriate program office.

(e) *Determination of program office.* The appropriate program office will review its initial agency determination and reconsider the position initially taken in the light of the arguments and additional materials provided in the request for reconsideration. Within 30 calendar days of its receipt of a request for reconsideration, the appropriate program office shall issue its determination either affirming in whole or in part the initial agency determination or rejecting it.

(f) *Notice of determination.* The appropriate program office shall provide its decision concerning the reconsideration request to the petitioner in writing, stating the reasons for the decision. The decision shall be treated as an initial agency determination for purposes of paragraph (a) of § 746.204.

(1) In addition to a written statement of reasons for the decision, the appropriate program office shall provide the petitioner with written notice of the right to appeal the decision, in whole or in part, to the Board in accordance with the procedures set forth in § 746.204.

(2) For creditor claims brought pursuant to sec. 207 of the Federal Credit Union Act (12 U.S.C. 1787), the appropriate program office shall provide the petitioner with written notice of the right, in the alternative to filing an appeal with the Board, to file suit or continue an action commenced before the appointment of the liquidating agent in the district or territorial court of the United States for the district within which the credit union's principal place of business was located or the United States District Court for the District of Columbia. For such claims, the 60-day period for filing a lawsuit in United States district court provided in 12 U.S.C. 1787(b)(6) shall be tolled from the date of the petitioner's request for reconsideration to the date of a determination pursuant to paragraph (e) of this section.

(3) Upon a showing of extenuating circumstances, as determined by the program office in its reasonable judgment, a petitioner may be allowed to submit a second reconsideration request before filing an appeal with the Board. In such cases, the deadline for filing an appeal with the Board shall begin to run from the earlier of the date of the decision of the program office regarding the second reconsideration request or thirty calendar days from the date the second reconsideration request was accepted by the program office.

(g) *Failure to make a determination.* Failure by the appropriate program office to issue a decision within the timeframe specified in paragraph (e) of this section shall be an affirmation of the original initial agency determination and shall be treated as an initial agency determination for purposes of paragraph (a) of § 746.204.

(h) *Burden of proof.* The burden of proof to lead the appropriate program office to modify or reverse an initial agency determination shall rest solely upon the petitioner.

§ 746.204 Appeal to the Board.

(a) *Filing.* Within 60 calendar days of the date of an initial agency determination, or, as applicable, a determination by the program office on any request for reconsideration, a petitioner may file an appeal seeking review of the determination by the Board. The request must be in writing and filed with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

(b) *Special rule regarding change in officials.* Notwithstanding paragraph (a) of this section, an appeal of an initial agency determination disapproving an individual serving as a director, committee member or senior executive officer pursuant to § 701.14 of this chapter must be filed with the Secretary of the Board within 15 calendar days of the date of the initial agency determination.

(c) *Failure to file a timely appeal.* Absent extenuating circumstances, as determined by the Board in its sole discretion, a petitioner who fails to file an appeal within the specified 60-day period shall be deemed to have waived all claims pertaining to the matters in issue.

(d) *Content of request.* Any appeal filed with the Board must include:

(1) A statement summarizing the underlying facts that form the basis of the appeal, together with copies of all pertinent documents, records, and materials on which the petitioner relies in support of the appeal.

(2) A statement outlining why the petitioner objects to the conclusions in the initial agency determination, including any errors alleged to have been made by the program office in reaching its determination.

(3) Any other materials or evidence relied upon by the petitioner that were not previously provided to the appropriate program office.

(e) *Burden of proof.* The burden of proof to lead the Board to modify or reverse an initial agency determination shall rest solely upon the petitioner.

(f) *Amending or supplementing the appeal.* Within 45 calendar days from the date the Secretary of the Board receives an appeal, the petitioner may amend or supplement the appeal in writing.

(g) *Request for oral hearing.* In accordance with § 746.207, the petitioner may request an opportunity to appear before the Board, in person, or via teleconference or videoconference, to make an oral presentation in support of the appeal.

§ 746.205 Preliminary considerations regarding the appeal.

(a) *Initial review.* The Special Counsel shall review all appeals filed with the Secretary of the Board and make a recommendation for their disposition to the Board. The Special Counsel shall have the authority to dismiss an appeal upon the request of the petitioner.

(b) *Supplemental materials.* Within 30 calendar days from the date the Secretary of the Board receives an appeal, the Special Counsel may request in writing that the petitioner submit additional evidence in support of the appeal. If additional evidence is requested, the petitioner shall have 30 calendar days from the date of issuance of such request to provide the requested information. Failure by the petitioner to provide such information may result in denial of the petitioner's appeal. The Special Counsel shall have the authority to request additional information from any other relevant source in order to provide the Board with a full and complete administrative record. All requests by the Special Counsel pursuant to this section must be reasonable and designed to facilitate the processing of the appeal, not to delay it.

§ 746.206 Administration of the appeal.

(a) *De novo review by Special Counsel.* After receipt of a timely appeal, the Special Counsel shall contact the relevant NCUA program office and request a complete set of all pertinent materials, including internal memoranda, correspondence, and records having a bearing on the initial agency determination being appealed. The Special Counsel will conduct an independent review of these materials, along with all materials submitted by the petitioner in support of the appeal. The Special Counsel will make a recommendation to the Board as to the appropriate disposition of the appeal after having evaluated the applicable legal arguments and considered the facts and circumstances that pertain to the appeal. As directed by the Board, the Special Counsel may provide his or her recommendation in writing to the Board and may make an oral presentation before the Board.

(b) *Determination on appeal.* Within 90 calendar days from the date of receipt of an appeal by the Secretary of the Board, or within any extension of time as established by the Chairman, the Board shall issue a decision allowing, in whole or in part, or disallowing the petitioner's appeal. The decision by the Board shall be in writing, stating the reasons for the decision, and shall constitute a final agency action for purposes of chapter 7 of title 5 of the United States Code. Failure by the Board to issue a decision on an appeal within the 90-day period or within any extension of time as established by the Board shall be deemed to be a denial of the appeal.

(c) *Extension of time.* In the discretion of the Chairman, the time frame for the Board's decision may be extended as the Chairman may consider necessary or appropriate for a full and fair consideration of the issues. For purposes of this paragraph (c), the Special Counsel is authorized to act on behalf of the Chairman and may, in that capacity, grant an extension of time.

§ 746.207 Procedures for oral hearing.

(a) *Request for oral hearing.* The petitioner may request to appear before the Board to make an oral presentation in support of the appeal. The request must be submitted with the initial appeal documents and should be in the form of a separate written document titled ''Request for Oral Hearing.'' The request must show good cause for an oral presentation and state reasons why the appeal cannot be presented adequately in writing.

(b) *Action on the request.* The Board shall determine whether to grant the request for oral hearing and shall direct the Special Counsel to serve notice of the Board's determination in writing to the petitioner. A request for oral hearing shall be granted with the approval of any Board member. The determination by a Board member approving an oral hearing must be taken within 20 days of the Board Secretary's receipt of the appeal.

(c) *Effect of denial.* In the event no Board member approves of holding an oral hearing, the request for an oral hearing is deemed to be denied, and the appeal shall be reviewed and determined by the Board on the basis of the written record.

(d) *Procedures for oral hearing.* The following procedures shall govern the conduct of any oral hearing:

(1) *Scheduling of oral hearing; location.* The Special Counsel shall notify the petitioner and the program office of the date and time for the oral hearing, making sure to provide reasonable lead time and schedule accommodations. The oral hearing will be held at NCUA headquarters in Alexandria, Virginia; *provided, however,* that on his or her own initiative or at the request of the petitioner, the Chairman may in his or her sole discretion allow for a hearing to be conducted via teleconference or video conference facilities.

(2) *Appearances; representation.* The petitioner and the NCUA program office shall submit a notice of appearance identifying the individual(s) who will be representing them at the oral presentation. The petitioner shall designate not more than two officers, employees, or other representatives (including counsel), unless otherwise authorized by the Chairman. The NCUA program office shall designate not more than two individuals (one of whom may be a litigation and enforcement attorney from NCUA's Office of General Counsel), unless otherwise authorized by the Chairman.

(3) *Conduct of oral hearing.* The oral hearing shall consist entirely of oral presentations. The introduction of written evidence or witness testimony at the hearing shall not be permitted. The petitioner shall present first, followed by the NCUA program office. Each side shall be allotted a specified and equal amount of time for its presentation, of which a portion may be reserved for purposes of rebuttal. This time limit shall be set by the Board and will be based on the complexity of the appeal. Members of the Board may ask questions of any individual appearing before the Board.

(4) *Transcript.* The oral hearing shall be on the record and transcribed by a stenographer, who will prepare a transcript of the proceedings. The stenographer will make the transcript available to the petitioner upon payment of the cost thereof.

(e) *Confidentiality.* An oral hearing as provided for herein constitutes a meeting of the Board within the meaning of the Government in the Sunshine Act (5 U.S.C. 552b). The NCUA Chairman shall preside over the conduct of the oral hearing. The meeting will be closed to the public to the extent that one or more of the exemptions from public meetings apply as certified by

NCUA's Office of General Counsel. The Board shall maintain the confidentiality of any information or materials submitted or otherwise obtained in the course of the procedures outlined herein, subject to applicable law and regulations.

(f) *Conclusion of the oral hearing.* The Board shall take the oral presentations under advisement. The Board shall render its decision on the appeal in accordance with § 746.206.

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

■ 30. The authority citation for part 747 continues to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 15 U.S.C. 1639e; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; Pub. L. 114–74.

■ 31. Remove and reserve subpart J of part 747.

PART 750—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

■ 32. The authority citation for part 750 continues to read as follows:

Authority: 12 U.S.C. 1786(t).

■ 33. Revise § 750.6(b) to read as follows:

§ 750.6 Filing instructions; appeal.

* * * * *

(b) A FICU whose request for approval by NCUA, in accordance with paragraph (a) of this section, has been denied may seek reconsideration of the request and/or file an appeal with the NCUA Board in accordance with the procedures set forth in subpart B to part 746 of this chapter.

[FR Doc. 2017–11319 Filed 6–6–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 746

RIN 3133–AE69

Supervisory Review Committee; Procedures for Appealing Material Supervisory Determinations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The NCUA Board (Board) proposes to amend its procedures for appealing material supervisory determinations to the NCUA Supervisory Review Committee (SRC) to enhance due process and to be more consistent with the practices of the federal banking agencies. The proposed rule would expand the number of supervisory determinations appealable to the SRC and provide credit unions with the opportunity for additional review by the Director of the Office of Examinations and Insurance (E&I). The Board proposes to codify these procedures of our regulations.

DATES: Comments must be received on or before August 7, 2017.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Supervisory Review Committee; Proposed Procedures for Appealing Material Supervisory Determinations'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You can view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, General Counsel, Frank S. Kressman, Associate General Counsel, or Benjamin M. Litchfield, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) [1] required the NCUA and the federal banking agencies to establish independent intra-agency appellate processes to review material supervisory determinations.[2] The Riegle Act also required the NCUA and the federal banking agencies to ensure that appeals of material supervisory determinations are heard and decided expeditiously and that appropriate safeguards exist for protecting appellants from retaliation by agency examiners.[3]

On November 17, 1994, the Board published proposed Interpretive Ruling and Policy Statement (IRPS) 94–2 ''Guidelines for the Supervisory Review Committee'' in the **Federal Register** and solicited public comment.[4] The Board proposed to establish a committee of five regular members consisting of NCUA's Executive Director, General Counsel, Director of E&I, a regional director, and one additional senior or Board staff member. The regional director was to be selected on a rotating basis every two years and an alternate regional director was to be designated to consider matters arising in the regular regional director member's region. The Executive Director was to serve as chair. The jurisdiction of the SRC was to be limited to matters specifically listed as material supervisory determinations in the Riegle Act.[5]

After receiving and considering public comment, the Board adopted an IRPS and published it in the **Federal Register** on March 20, 1995 as IRPS 95–1.[6] In the final IRPS, the Board reduced the size of the SRC from five members to three, with each member appointed by the NCUA Chairman. The jurisdiction of the SRC was limited to matters specifically listed as material supervisory determinations in the Riegle Act, although the Board reserved the right to expand the number of supervisory determinations appealable to the SRC after gaining some experience with the process. The final IRPS also clarified that material ''examination ratings'' included composite CAMEL ratings of 3, 4, or 5,

[1] Public Law 103–325, 108 Stat. 2160 (1994).

[2] 12 U.S.C. 4806(a).

[3] *Id.* at 4806(b)(1)–(2).

[4] 59 FR 59437 (Nov. 17, 1994).

[5] The Riegle Act defines ''material supervisory determination'' to include determinations relating to: (1) Examination ratings; (2) the adequacy of loan loss reserve provisions; and (3) classifications on loans that are significant to a federally insured credit union. 12 U.S.C. 4806(f)(1)(A)(i)–(iii).

[6] 60 FR 14795 (Mar. 20, 1995).

as well as component ratings of those composite ratings.

The Board revised the IRPS in 2002 to expand the jurisdiction of the SRC to include decisions by a regional director to revoke a credit union's authority under NCUA's then Regulatory Flexibility Program (RegFlex).[7] In 2011, the Board revised the IRPS again to expand the jurisdiction of the SRC to include denials of Technical Assistance Grant (TAG) reimbursements by the Director of the Office of Small Credit Union Initiatives (OSCUI).[8] This revision was published in the **Federal Register** as IRPS 11–1, ''Supervisory Review Committee'' on April 29, 2011. The Board has not made material changes to IRPS 11–1 since 2012, when it removed all references to RegFlex to reflect the elimination of that program.[9]

II. Summary of Proposed Rule

The proposed rule would: (1) Expand the number of material supervisory determinations appealable to the SRC; (2) create an optional intermediate level of review before an appeal is brought to the SRC; and (3) change the nature and composition of the SRC. The proposed rule would be codified as Subpart A to part 746. The Board is requesting comment on all aspects of this proposed rule.

A. Expansion of Supervisory Review Committee Jurisdiction

Based on NCUA's experience in administering the current appellate process, the Board believes that it would be efficient and beneficial if the SRC appeals process is more transparent and objective and if more material supervisory determinations are appealable to the SRC. The proposed rule would, therefore, redefine the term ''material supervisory determination'' to include supervisory determinations that may affect the capital, earnings, operating flexibility, or that may otherwise affect the nature and level of supervisory oversight of a federally insured credit union (FICU). Certain exceptions would be made for material supervisory determinations that are specifically excluded by the Riegle Act or where other appeals procedures exist.

B. Addition of Optional Intermediate Level of Review

The Board is also proposing to add an optional intermediate level of review by the Director of E&I, or his or her designee, before a FICU appeals to the SRC. A decision by the Director of E&I would be made in writing with no opportunity for oral presentations from either the petitioner or the program office. The Director of E&I, in addition to his or her supervisory expertise, would have the ability to consult with the parties either jointly or separately before rendering a decision. If the FICU or program office is unsatisfied with the decision rendered by the Director of E&I, or his or her designee, either may appeal that decision to the SRC. This optional level of review provides enhanced due process to FICUs that wish to use it.

C. Composition of the Supervisory Review Committee

The proposed rule would restructure the SRC by creating a rotating SRC pool of not less than eight individuals appointed by the NCUA Chairman from among NCUA's senior staff in the regional and central offices. The Secretary of the Board would serve as the permanent SRC Chairman and would select three SRC members from this SRC pool to serve as the SRC for a particular appeal. As the permanent SRC Chairman, the Secretary of the Board would also be a member of the SRC pool and be eligible to serve as a member of the SRC for a particular appeal.[10] The Special Counsel to the General Counsel (Special Counsel) would serve as a permanent non-voting member of each SRC to advise each committee on procedural and legal matters.

The SRC Chairman would not be permitted to select SRC members from the program office that rendered the material supervisory determination that is the subject of the appeal to hear that appeal. Likewise, in cases where the FICU requested review by the Director of E&I, staff from E&I would be ineligible to serve as SRC members for that appeal. The presence of two SRC members (physically, telephonically, or by video conference) would be required as a quorum, and a majority of votes present would be required for action on an appeal.

D. Summary Chart of Proposed SRC Appeals Procedures

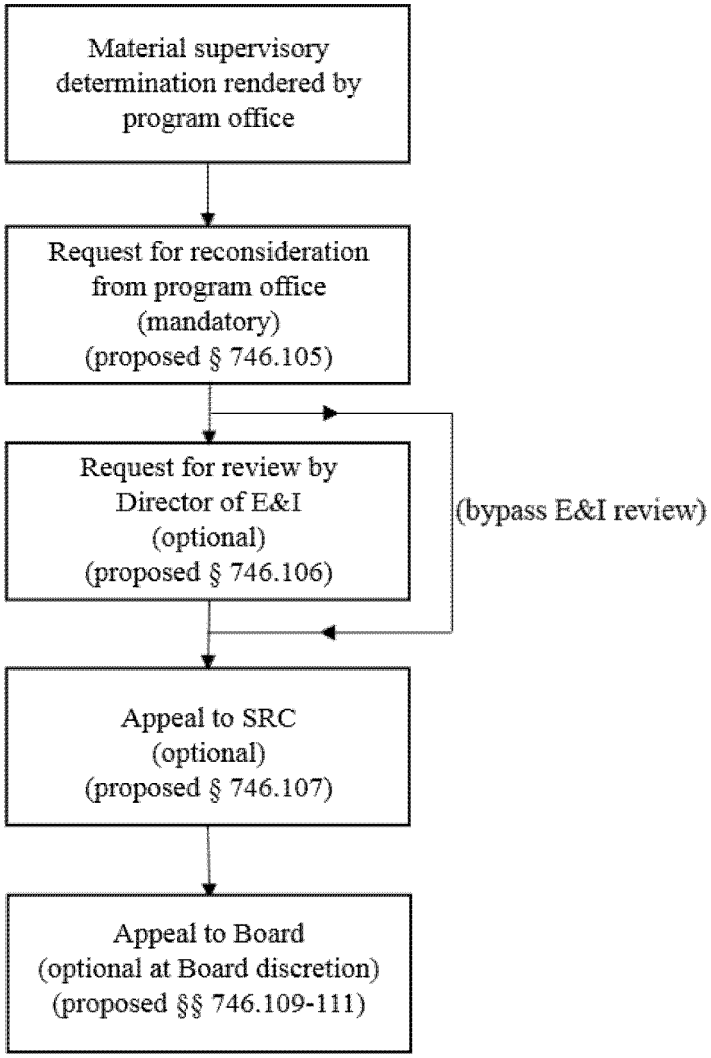
Under the proposed rule, an appeal to the SRC would resemble the following decision tree:

[7] 67 FR 19778 (Apr. 23, 2002) (revocation of RegFlex authority).

[8] 76 FR 3674 (Jan. 20, 2011) (interim final rule); 76 FR 23871 (Apr. 29, 2011) (final rule).

[9] 77 FR 32004 (Aug. 29, 2012). RegFlex permitted some federal credit unions with advanced levels of net worth and consistently strong supervisory examination ratings to request exemptions, in whole or in part, from certain NCUA regulations. *See* 66 FR 58655 (Nov. 23, 2001). The Board eliminated this program in 2011, but made certain regulatory relief provisions previously available under the program widely available to all federal credit unions. *See* 77 FR 31981 (May 31, 2012).

[10] With the inclusion of the SRC Chairman, the total number of NCUA senior staff in the SRC pool will be not less than nine; eight or more of which would be appointed by the NCUA Chairman.



III. Section by Section Analysis

Part 746—Appeals Procedures

Subpart A—Procedures for Appealing Material Supervisory Determinations

The Board is proposing to create Subpart A to part 746 which would contain a comprehensive set of procedures to govern the appeal of material supervisory determinations. In a separate rulemaking issued together with this proposed rule, the Board is proposing significant changes to the administrative appeals process for matters that are outside of the jurisdiction of the SRC, which would be contained in Subpart B to part 746.

Section 746.101 Authority, Purpose, and Scope

Proposed § 746.101 states the legal authority for the Board to issue this proposed rule. As noted in the Background section above, the Board is issuing this proposed rule pursuant to its authority under § 309(a) of the Riegle Act.[11] The Board is also issuing this proposed rule under its plenary regulatory authority in the Federal Credit Union Act.[12]

This section also states the purpose and scope of the rule. The scope of the proposed rule is limited to appeals of ''material supervisory determinations,'' a term defined by the regulation, and does not apply to appeals where the petitioner has been granted a right to a hearing on the record or appeals governed by Subpart B to part 746.

Section 746.102 Definitions

In § 746.102, the Board proposes to define certain terms. Unless defined, the Board expects FICUs and other affected parties to interpret terms or phrases consistently with the general definitions in § 700.2 of NCUA's regulations or, where not defined, according to their plain meaning.

Petitioner

The term ''petitioner'' refers to an entity, including a program office, requesting reconsideration or review, or filing an appeal pursuant to the procedures set forth in this subpart. As detailed more fully below, FICUs must first request reconsideration from the appropriate program office and then may request review from the Director of E&I. Either a FICU or a program office may appeal a partial or complete adverse decision by the Director of E&I, or his or her designee, to the SRC. Similarly, either a FICU or program office may appeal a partial or complete adverse decision by the SRC to the Board. Recognizing that, depending on the procedural posture of a particular appeal, the entity requesting review may be either a FICU or a program office, the Board is proposing to adopt a uniform term to describe all entities requesting agency action on a particular matter.

[11] 12 U.S.C. 4806(a).

[12] 12 U.S.C. 1766(a), 1789(a)(11).

Program Office

The Board is proposing to adopt a uniform term ''program office'' to refer to all offices within NCUA responsible for making material supervisory determinations. Several NCUA offices are responsible for administering various NCUA regulations. Rather than use different terminology, the Board is proposing to adopt ''program office'' as a uniform term to describe all of the different NCUA offices responsible for making material supervisory determinations.

Respondent

The term ''respondent'' refers to an entity, including a program office, defending against an action by a petitioner. As noted above, depending on the procedural posture of a particular appeal, the entity requesting review may be either a FICU or a program office. Therefore, the Board is proposing to adopt a uniform term to describe all entities defending against a petitioner's action.

Section 746.103 Material Supervisory Determination

In response to proposed IRPS 94–2, several commenters argued that the additional disputes other than those specifically listed in the Riegle Act should be appealable to the SRC. In IRPS 95–1, however, the Board adopted a narrow definition of ''material supervisory determination'' in order to allow for the opportunity to gain experience with the SRC appeals process. Having administered SRC appeals for over 20 years, the Board has gained sufficient experience with the SRC appeals process and believes that expanding the jurisdiction of the SRC to be consistent with the federal banking agencies is now appropriate to provide FICUs with enhanced due process.

Proposed § 746.103 defines the term ''material supervisory determination'' to mean a written decision by a program office (unless ineligible for appeal) that may significantly affect the capital, earnings, operating flexibility, or that may otherwise affect the nature and level of supervisory oversight of a FICU subject to the exclusions detailed below. Examples of material supervisory determinations include, but are not limited to, determinations related to the adequacy of loan loss reserve provisions; classification of loans and other assets that are significant to a FICU; and determinations related to restitution orders under the Truth in Lending Act (TILA). This proposed definition is similar to the definition used by the Federal Deposit Insurance Corporation (FDIC).[13]

CAMEL Ratings

The proposed definition limits the ability to appeal CAMEL ratings to composite ratings. Component ratings would no longer be appealable to the SRC unless those ratings may affect the nature and level of supervisory oversight of a FICU. For example, if eligibility for an extended examination cycle is contingent on a component rating of 1 or 2 in management, a management rating of 3 would be appealable to the SRC. Based on its experience with administering the current appellate process, the Board does not believe that component ratings are ''material'' in most cases if the FICU otherwise maintains an overall composite CAMEL rating of 1 or 2. Therefore, the proposed definition of ''material supervisory determination'' limits the ability of FICUs to appeal examination ratings only to those cases where the FICU has received a composite rating of 3, 4, or 5, or a component rating that could trigger supervisory action.

TILA Restitution Orders

The proposed rule specifically lists a restitution order pursuant to TILA as a material supervisory determination appealable to the SRC.[14] Section 108 of TILA permits the Board, where appropriate, to order federal credit unions (FCUs) to make restitution to consumers that have been harmed by inaccurate disclosures.[15] Determining whether restitution is appropriate often depends on whether there is a clear and consistent pattern or practice of violations, gross negligence, or a willful disregard for the requirements of TILA. Examiners are in the best position, in the first instance, to determine whether FCUs demonstrate clear and consistent patterns of TILA violations. Because review of these determinations requires consideration of the facts and circumstances before the examiner, the Board believes the SRC appeals process is the most appropriate method for considering these appeals before taking an appeal to the Board.

Exclusions From Coverage

Notwithstanding the broad definition of ''material supervisory determination,'' the Board proposes to exclude certain material supervisory determinations from the jurisdiction of the SRC. The Riegle Act specifically excludes the decision to appoint a conservator or liquidating agent for a FICU and the decision to take prompt corrective action.[16] The proposed rule also excludes enforcement-related actions and decisions, including appeals related to the underlying facts and circumstances that form the basis of a recommended or pending enforcement action, because NCUA has explicit rules governing the adjudication of these matters that provide affected parties with trial-like protections.[17]

The purpose of excluding enforcement-related actions and decisions (including the underlying facts and circumstances that form the basis of a pending formal enforcement action) is to ensure that the enforcement and SRC processes remain separate. Therefore, once an enforcement action is pending against a FICU, the proposed rule would prohibit FICUs from requesting review by the Director of E&I, or his or her designee, or appealing to the SRC any material supervisory determination that serves as the basis of that enforcement action. In other words, once an enforcement action is initiated, the SRC appeals process is suspended, regardless of how far along the FICU may be in that process, until the enforcement action is resolved.

The proposed rule also excludes supervisory determinations for which other appeals procedures exist such as a capital classification for prompt corrective action purposes.[18] This recognizes that there are some situations where the Board may, in its discretion, draft rules with explicit appeals procedures or explicitly state that certain matters are governed by particular appeals procedures set forth elsewhere in NCUA's regulations. In those cases, the Board expects FICUs to follow the explicit procedures stated in the regulation rather than attempting to appeal matters to the SRC.

Section 746.104 General Provisions

Proposed § 746.104 addresses a series of general procedural issues that apply

[13] FDIC currently defines ''material supervisory determination'' to include, among other things, ''any supervisory determination (unless otherwise not eligible for appeal) that may affect the capital, earnings, operating flexibility, or capital category for prompt corrective action purposes of an institution, or otherwise affect the nature and level of supervisory oversight accorded an institution.'' 77 FR 17055 (Mar. 20, 2012).

[14] On September 30, 2010, the Board delegated the authority to examine and supervise FCUs for compliance with consumer laws and regulations to the Office of Consumer Financial Protection and Access. This includes the authority to order an FCU to make restitution to consumers where permitted under TILA.

[15] 15 U.S.C. 1607(e); *see also* 63 FR 47495 (Sept. 8, 1998).

[16] 12 U.S.C. 4806(f)(1)(B).

[17] *See* 12 CFR 747.

[18] *See* 12 CFR 747.2003.

throughout the proposed rule. These matters include the standard of review, the effect of an appeal on the commencement of enforcement actions, the effect of an appeal on applications for additional authority or waiver requests, and the tolling of timing requirements.

Standard of Review

The goal of the proposed rule is to enhance due process for credit unions and to apply NCUA's policies and practices fairly and consistently among all FICUs. Therefore, the Board proposes to place the burden of showing an error in an appealed determination on the petitioner. The objective of appellate review by the Director of E&I, the SRC, and the Board is to ensure that the appealed determination is correct and not just reasonable. If the Director of E&I, the SRC, or the Board, as applicable, determines that the appealed determination is incorrect upon their respective *de novo* review, then they will render a corrected determination.

Dismissal and Withdrawal

The proposed rule permits an appeal to be dismissed if it is not timely filed, if the basis for the appeal is not discernable, if the petitioner asks to withdraw the request in writing, or for reasons deemed appropriate by the reviewing authority, including, for example, if a petitioner in an appeal acts in bad faith by knowingly withholding evidence from the appropriate reviewing official. FICUs are encouraged to make good-faith efforts to resolve supervisory issues, including those concerning a material supervisory determination, at the most direct level possible, starting with their examiners or program office staff, and as efficiently as possible. If the Director of E&I, the SRC, or the Board, as applicable, finds that a FICU has engaged in bad faith by knowingly withholding evidence from an examiner, the program office, the Director of E&I, the SRC, or the Board, that withholding may serve as a basis for dismissing an appeal.

Supervisory or Enforcement Actions Not Affected

Under the proposed rule, an appeal at any level would not affect, delay, or impede any formal or informal supervisory or enforcement action in progress, nor would it affect NCUA's authority to take any supervisory or enforcement action against a FICU. Unless otherwise specified in a written decision on appeal, the material supervisory determination would remain in effect until the SRC appeals process has been exhausted.

Additional Authority and Waiver Requests During the Pendency of an Appeal

Likewise, under the proposed rule, an appeal would delay action on a waiver request or an application for additional authority that could be affected by the outcome of the appeal unless the FICU specifically requests that the waiver request or application for additional authority be considered notwithstanding the appeal. Any deadline for a program office to make a determination on a waiver request or application for additional authority set out in any part of NCUA's regulations would be suspended until the FICU has exhausted its administrative remedies under Subpart A or is no longer eligible to pursue an appeal. The purpose of this provision is to avoid situations where a FICU receives an adverse determination on a waiver request or an application for additional authority based on a material supervisory determination, only to have the material supervisory determination subsequently reversed by the SRC. It also prevents a waiver request or an application for additional authority from being automatically denied by operation of other parts of NCUA's regulations.

Section 746.105 Procedures for Reconsideration From the Appropriate Program Office

FICUs are encouraged to resolve supervisory issues with their examiners and other NCUA staff as efficiently as possible without the need to appeal supervisory matters to the SRC. The Board anticipates that most disputes will be handled in that manner. Proposed § 746.105 reflects this policy by requiring a FICU to request reconsideration of a material supervisory determination from the program office that rendered the determination and by establishing procedures that control such a request. The Director of E&I or the SRC would only assume jurisdiction over a material supervisory determination after the FICU has requested reconsideration from the appropriate program office and that program office has had an opportunity to render a decision on that request.

As the Board explained in IRPS 94–2, it is NCUA policy that the SRC should only assume jurisdiction over a material supervisory determination after the FICU establishes that it has been unsuccessful in attempting to resolve the matter with the FICU's examiner or the appropriate program office. Early involvement by the Director of E&I or the SRC would be disruptive to the established organizational structure of NCUA and the relationships between FICUs and NCUA program offices. Therefore, the Board believes that requesting reconsideration from the appropriate program office should continue to be a mandatory part of the process of appealing a material supervisory determination to the SRC.

Nevertheless, to avoid unnecessary delays, a second request for reconsideration will be treated as either a request for review by the Director of E&I or an appeal to the SRC as determined by the Secretary of the Board after consultation with the petitioner. While the reconsideration process promotes greater efficiency by facilitating dispute resolution at the program office level, allowing multiple requests for reconsideration would be inefficient. Upon receiving a second request for reconsideration, the program office will forward that to the Secretary of the Board to be processed as either a request for review pursuant to § 746.106 or an appeal pursuant to § 746.107.

Section 746.106 Procedures for Requesting Review by the Director of the Office of Examination and Insurance

Proposed § 746.106 provides an optional intermediate level of review by the Director of E&I, or his or her designee, before a FICU appeals a material supervisory determination to the SRC. The purpose of this intermediate level of review is to give FICUs another opportunity to resolve supervisory issues and to refine the issues that may be presented to the SRC and the Board on appeal. A request for review by the Director of E&I must be in writing and filed with the Secretary of the Board.

The Board believes that the Director of E&I, or his or her designee, is the appropriate official for these intermediate reviews because E&I is NCUA's central office in charge of examination policy. E&I staff are expert in nearly all examination-related matters. Additionally, E&I is not in the direct line of supervision over any program office, thus avoiding any bias or predisposition to affirm a material supervisory determination by a program office.

Under the proposed rule, the Director of E&I, or his or her designee, will issue a written decision based on written submissions by the FICU and the program office. The Director of E&I, or his or her designee, will have the ability to consult with parties jointly or separately before rendering a decision. Either the FICU or the program office will be able to appeal any adverse

decision by the Director of E&I, or his or her designee, to the SRC.

Neither party may make a request for reconsideration of the decision rendered by the Director of E&I, or his or her designee. If a party disagrees with the decision rendered by the Director of E&I, or his or her designee, the next step for further review is to file an appeal to the SRC.

Section 746.107 Procedures for Appealing to the Supervisory Review Committee

Proposed § 746.107 codifies many of the existing procedures contained in IRPS 11–1, as amended by IRPS 12–1, and expands on them by permitting the SRC Chairman to: (1) Adopt supplemental rules governing its operations; (2) order that material be kept confidential; and (3) consolidate appeals that present similar issues of law or fact. The Board believes that with the expanded jurisdiction of the SRC, additional procedures may be necessary to address operational issues. For example, after some experience with the appeals process, the SRC Chairman may determine that supplemental rules allowing all appeals to be presented through teleconference rather than in person at NCUA headquarters are necessary to ensure that appeals are conducted efficiently and promptly. The proposed rule grants the SRC Chairman the flexibility to adopt such supplemental rules.

In addition, proposed § 746.107 creates an explicit right for a FICU to request that an appeal be conducted entirely based on the written record. As the Board explained in IRPS 95–1, the decision of whether to make a personal appearance should be up to the FICU involved in a particular appeal because FICUs are responsible for all costs associated with a personal appearance. While IRPS 95–1 attempted to save resources of both FICUs and NCUA by permitting the SRC Chairman to work out disputes via teleconference, the Board believes that more can be done to provide enhanced due process. Therefore, the proposed rule explicitly grants FICUs the right to request that an appeal be conducted entirely based on the written record.

The proposed rule also requires the SRC Chairman to notify the Director of E&I of an appeal that involves the interpretation of material supervisory policy or generally accepted accounting principles and solicit input from E&I on how to interpret the policy or accounting principle that applies to the subject matter of the appeal. E&I staff are responsible for setting supervisory policy and interpreting accounting principles for NCUA. Therefore, it is appropriate to require the SRC to solicit input from the Director of E&I and E&I staff on these matters. Furthermore, the proposed rule requires the SRC Chairman to notify the General Counsel and solicit input from the Office of General Counsel on the interpretation of laws, including NCUA regulations, which may apply to the subject matter of an appeal. The Office of General Counsel serves as legal counsel for NCUA and, therefore, consultation with that office on these issues is necessary and proper.[19]

Effect of Requesting Review by the Director of the Office of Examination and Insurance

The proposed rule encourages a FICU to resolve supervisory matters as efficiently as possible by allowing the FICU to request an optional review by the Director of E&I, or his or her designee. Accordingly, for FICUs that have elected to request review by the Director of E&I, or his or her designee, the proposed rule suspends the deadline to file an appeal with the SRC until after the Director of E&I, or his or her designee, has rendered a decision. In practice, this means that a FICU could potentially delay the deadline to file an appeal with the SRC until after the Director of E&I, or his or her designee, has considered the matter. While this could potentially give FICUs additional time to file an appeal with the SRC, the Board believes that the potential benefits of reduced caseloads at the SRC and Board levels exceed any potential risks of delay, especially because material supervisory determinations would remain in place during the pendency of a review by the Director of E&I, or his or her designee. Additionally, during this time, NCUA would not be prohibited from taking supervisory or enforcement actions.

Section 746.108 Composition of Supervisory Review Committee

The Board proposes to create a rotating pool of not less than eight individuals appointed by the NCUA Chairman from among NCUA's senior staff in the regional offices, the Office of the Executive Director (OED), the Office of Examination and Insurance (E&I), the Office of National Examination and Supervision (ONES), the Office of Small Credit Union Initiatives (OSCUI), and the Office of Consumer Financial Protection and Access (OCFPA) to serve with the SRC Chairman as a SRC pool from which individual members may be selected by the SRC Chairman to serve as the SRC for a particular appeal.[20] Each member of the SRC pool, with the exception of the SRC Chairman, will serve for a one-year term and is eligible to be reappointed for additional terms. A regional director, associate regional director, executive director, deputy executive director, a general counsel, and a senior policy advisor or chief of staff to a Board Member will be ineligible to serve as a member of the SRC pool.

The Secretary of the Board will serve as permanent SRC Chairman and will select three SRC members (one of whom may be the SRC Chairman) from this SRC pool to serve as the SRC for each particular appeal. The Special Counsel will serve as a permanent non-voting member of the SRC to advise the SRC on procedural and legal matters. When selecting SRC members to hear a particular appeal, the SRC Chairman will consider any real or apparent conflicts of interest that may impact the SRC member's objectivity as well as that individual's experience with the subject matter of the appeal. Members of the SRC pool from the program office rendering the material supervisory determination that is the subject of the appeal will be ineligible to serve as SRC members for that appeal. Likewise, E&I staff will be ineligible to serve as SRC members for appeals where the FICU is appealing a determination following a request for review by the Director of E&I.

The Board believes that creating a rotating SRC pool of individuals eligible to serve on the SRC from among NCUA's senior staff in the regional offices, OED, E&I, ONES, OSCUI, and OCFPA is appropriate because these individuals are well-suited to understand supervisory issues and render consistent, well-reasoned decisions. Senior staff from the regional offices, E&I, and ONES are actively engaged in examination-related activities and have in-depth knowledge of current trends in the credit union industry. Likewise, senior staff from OSCUI have specialized knowledge of the needs of small and low-income FICUs. Moreover, senior staff from OCFPA have specialized knowledge of the latest issues in chartering, field of membership, and consumer protection. Each of these program offices brings a unique and diverse set of skills that will greatly benefit the SRC appeals process.

[19] *See* 12 CFR 790.2(b)(7) (describing the role of the Office of General Counsel).

[20] With the inclusion of the SRC Chairman, the total number of NCUA senior staff in the SRC pool will be not less than nine; eight or more of which would be appointed by the NCUA Chairman.

In addition, expanding the number of individuals eligible to serve on the SRC enhances due process by eliminating the potential for conflicts of interest. Having a wider pool from which to draw when selecting SRC members allows the SRC Chairman to avoid conflicts of interest by selecting SRC members without any direct ties to the program office that rendered the material supervisory determination. Moreover, having additional members in the SRC pool means that the Board can expand the jurisdiction of the SRC, while still providing an expeditious process for a FICU to appeal a material supervisory determination.

Nevertheless, the Board continues to believe that regional directors and associate regional directors should not serve in the pool of individuals eligible to serve on the SRC. The Riegle Act mandated NCUA to establish an ''independent appellate process,'' which it defines as ''a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.'' [21] This reflects a clear Congressional intent to afford a FICU a separate and meaningful appeal of a material supervisory determination. As the Board explained in IRPS 95–1, allowing regional directors and associate regional directors to serve as members of the SRC pool would place these individuals in the untenable position of potentially reviewing material supervisory determinations made by their colleagues. While the Board does not believe that these individuals would be predisposed to support other regional directors or associate regional directors, the Board wishes to eliminate any perception that the SRC appeals process may be biased against FICUs.

Likewise, the Board continues to believe that the executive director, deputy executive director, policy advisors and chiefs of staff to Board Members should not serve as members of the SRC pool.[22] These individuals serve in positions that report to and represent the interests of Board Members. In order to ensure a separate and meaningful final appeal to the Board, these individuals should not serve as members of the SRC pool. Likewise, the Board believes that attorneys from the Office of General Counsel should not serve as members of the SRC pool. These individuals are responsible for providing legal advice to NCUA including the SRC and the Board. In order to prevent any conflicts of interest, these individuals should not serve as members of the SRC pool.

[21] 12 U.S.C. 4806(f)(2).

[22] *See* IRPS 95–1.

Section 746.109 Procedures for Appealing to the NCUA Board

This section of the proposed rule describes the filings that must be made with the Secretary of the Board in order to appeal a decision by the SRC to the Board. It also addresses timing requirements. A request for appeal must include a statement of facts on which the appeal is based, a statement of the petitioner's principal objections to the SRC's decision, and, for FICUs, a certification that the FICU's board of directors has authorized the appeal to be filed. The proposed rule cross references procedures set out in § 746.111 that must be followed to request an oral hearing.

Granting an Appeal

Consistent with IRPS 11–1, as amended by IRPS 12–1, appeals to the Board would not be granted as a matter of right. Rather, at least one Board Member would be required to agree to hear an appeal from a decision by the SRC within 20 calendar days from the date the petitioner first filed the appeal with the Secretary of the Board. The purpose of this provision is to reserve Board review for only those cases involving significant issues of supervisory policy that cannot be addressed at the several lower appellate levels provided by this rule or through a request for reconsideration from the appropriate program office. At this stage, petitioners would have had the opportunity to obtain potentially three levels of review (*i.e.,* reconsideration from the program office, review by the Director of E&I or his or her designee, and appeal to the SRC). Therefore, the Board believes that limiting Board review to only certain matters is not unfairly prejudicial. Furthermore, if a request for an appeal is denied, the decision of the SRC would be treated as a final agency action permitting the petitioner to seek judicial review in federal court under the Administrative Procedure Act (APA).

If a request for an appeal is granted, the Board generally will decide the matter based solely on written submissions by the parties. However, if a request for an appeal is granted with an oral hearing, the Secretary of the Board would notify the parties of the date and time where the appeal shall be heard. As discussed in more detail below, an oral hearing may be either in person (including through counsel) or through video or teleconference.

Within 15 calendar days from the date the Secretary of the Board receives an appeal, the petitioner may amend or supplement the appeal in writing. The respondent would then be permitted 15 calendar days to respond to any supplemental filings.

Certain Actions Not Reviewable

Under the proposed rule, petitioners are permitted to request an appeal to the Board in all circumstances except denials of TAG reimbursements. As the Board explained in its rulemaking regarding the Community Development Revolving Loan Fund, TAG reimbursements are subject to the discretion of the Director of OSCUI and availability of funds.[23] Therefore, such determinations are not subject to administrative appeal to the Board. However, whether a FICU meets the qualifications set forth in a Notice of Funding Opportunity, which is different from whether the FICU should be granted a TAG reimbursement, is subject to administrative appeal to the Board under separate procedures and not through the SRC appeals process.

Section 746.110 Administration of the Appeal

Proposed § 746.110 sets out the standard procedures followed by the Board upon receipt of a timely appeal. These proposed procedures are, in some respects, a codification of informal practices that the Board currently follows when reviewing other types of appeals that were not heard by the SRC. To date, the Board has only received one appeal of a decision by the SRC.

Proposed paragraph (b) requires the Board to render a written decision stating the reasons for the decision within 90 calendar days, unless extended by the Board, from the date of receipt of an appeal by the Secretary of the Board. Such a decision would constitute a final agency action permitting the petitioner to seek judicial review in federal court under the APA. If the Board does not reach a decision within 90 calendar days, unless otherwise extended, from the date of receipt, then it would be treated as a denial. Building this deadline into the rule ensures that the Board has adequate time to decide a matter on appeal while avoiding any undue prejudice to petitioners from unnecessary delays.

Section 746.111 Oral Hearing

This section of the proposed rule sets out the process for requesting and conducting an oral hearing. The Board recognizes that, in some unusual cases, the opportunity to make an oral presentation in person (or through video

[23] 76 FR 67583, 67586 (Nov. 11, 2011).

or teleconference) is necessary or useful to ensure a thorough understanding of the issues in a case. Therefore, the Board proposes to allow a FICU to make an oral presentation to the Board where at least one Board Member agrees with the petitioner that good cause exists for holding an oral hearing. Individual Board Members must act on such a request within 20 days of receiving a request for an oral hearing.

Request for Oral Hearing; Action on Request; Effect of Denial

Paragraph (a) describes the process for requesting an oral hearing. The request must accompany the notice of appeal itself, set out in a separate document titled ''Request for Oral Hearing.'' The petitioner would be required to show good cause for holding an oral hearing, stating reasons why the case cannot be presented adequately with just written statements. Proposed paragraph (b) specifies that an oral hearing would be scheduled provided at least one Board Member agrees to the oral hearing. The Secretary of the Board would notify the parties of the Board's determination regarding the request for an oral hearing. Proposed paragraph (c) specifies that, in the event the request does not receive the support of at least one Board Member, the appeal will proceed on the basis of written submissions.

Procedures for Oral Hearing—Appearances; Representation

At an oral hearing, the petitioner would be permitted to be represented by one or more representatives of its choice (but not more than two without prior approval by the NCUA Chairman). This proposed paragraph recognizes the general right granted in the APA for individuals appearing in person before an agency to be ''accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative[s].'' [24] In general, courts have found the right to counsel to be a fundamental aspect of procedural due process in both informal and formal agency adjudications.[25]

Conduct of Oral Hearing

Proposed paragraph (d)(3) permits the use of presentations based on written evidence submitted as part of the appeal documents. The submission of written evidence or witness testimony at the oral hearing would not be permitted. The petitioner would be given the opportunity to argue first, followed by a representative of the opposing party.

Section 746.112 Retaliation Prohibited

The Riegle Act required the Board to appoint an official to handle any problems FICUs may have as a result of appealing a material supervisory determination.[26] NCUA policy prohibits any retaliation, abuse, or retribution by NCUA personnel against a FICU in this regard. FICUs that believe they are victims of impermissible retaliation would be able to file complaints with the NCUA Office of Inspector General, who will investigate such claims and recommend appropriate action.

Section 746.113 Coordination With State Supervisory Authority

In the event that a material supervisory determination becomes the subject of a request for review by the Director of E&I and is the joint product of NCUA and a state supervisory authority (SSA), proposed § 746.113 requires the Director of E&I, or his or her designee, to promptly notify the SSA of the request for review, provide the SSA with a copy of the request and any other related materials, solicit the SSA's views regarding the merits of the request before making a determination, and notify the SSA of the Director's determination.

In the event that an appeal is subsequently filed with the SRC, the SRC is required to notify the SSA of the appeal, provide the SSA with a copy of the appeal and any other related materials, solicit the SSA's views regarding the merits of the appeal before making a determination, and notify the SSA of the SRC's determination. Once the SRC issues a determination, any other issues not addressed by the SRC that may remain between the FICU and the SSA would be left to those parties to resolve. Similar procedures would be followed for appeals to the Board.

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[27] This rule has no economic impact on small credit unions because it only impacts internal NCUA procedures and provides voluntary options for credit unions. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.[28] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. Information collected as part of a civil action or administrative action, investigation, or audit, however, is not considered an information collection for purposes of the PRA.

Proposed Subpart A to part 746 establishes procedures for appealing material supervisory determinations to the NCUA Supervisory Review Committee. Because the only paperwork burden in this proposed rule relates to activities that are not considered to be information collections, NCUA has determined that this rule is exempt from the requirements of the PRA.[29]

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999.[30]

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests.[31] NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has therefore determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

[24] 5 U.S.C. 555(b).

[25] *See Goldberg* v. *Kelly,* 397 U.S. 254, 270 (1970) (''The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. We do not say that counsel must be provided at the pre-termination hearing, but only that the recipient must be allowed to retain an attorney if he so desires. Counsel can help delineate the issues, present factual contentions in an orderly manner, conduct cross-examination, and generally safeguard the interests of the recipient.'').

[26] 12 U.S.C. 4806(d).

[27] 5 U.S.C. 603(a).

[28] 44 U.S.C. 3507(d); 5 CFR 1320.

[29] 44 U.S.C. 3518(c)(1)(B)(ii).

[30] Public Law 105–277, 654, 112 Stat. 2681, 2681–581 (1998).

[31] 64 FR 43255 (Aug. 4, 1999).

List of Subjects

12 CFR Part 746

Administrative practice and procedure, Claims, Credit Unions, Investigations.

By the National Credit Union Administration Board on May 25, 2017.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board proposes to add Subpart A to 12 CFR part 746 as follows:

PART 746—APPEALS PROCEDURES

■ 1. The authority citation for part 746 reads as follows:

Authority: 12 U.S.C. 1766, 1787, and 1789.

■ 2. Add a new subpart A to read as follows:

Subpart A—Procedures for Appealing Material Supervisory Determinations

Sec.

746.101 Authority, Purpose, and Scope.
746.102 Definitions.
746.103 Material Supervisory Determinations.
746.104 General Provisions.
746.105 Procedures for Reconsideration from the Appropriate Program Office.
746.106 Procedures for Requesting Review by the Director of the Office of Examination and Insurance.
746.107 Procedures for Appealing to the Supervisory Review Committee.
746.108 Composition of Supervisory Review Committee.
746.109 Procedures for Appealing to the NCUA Board.
746.110 Administration of the Appeal.
746.111 Oral Hearing.
746.112 Retaliation Prohibited.
746.113 Coordination with State Supervisory Authority.

§ 746.101 Authority, Purpose, and Scope.

(a) *Authority.* This subpart is issued pursuant to section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4806), which requires the NCUA Board to establish an independent intra-agency process to review appeals of material supervisory determinations made by agency officials, and sections 120 and 209 of the Federal Credit Union Act (12 U.S.C. 1766, 1789).

(b) *Purpose.* The purpose of this subpart is to establish an expeditious review process for federally insured credit unions to appeal material supervisory determinations to an independent supervisory panel and, if applicable, to the NCUA Board. This subpart is also intended to establish appropriate safeguards for protecting appellants from retaliation by agency officials.

(c) *Scope.* This subpart applies to the appeal of material supervisory determinations made by agency officials. This subpart does not apply to the appeal of determinations for which an independent right to appeal exists such as a decision to appoint a conservator or liquidating agent for a federally insured credit union or to take prompt corrective action pursuant to section 216 of the Federal Credit Union Act (12 U.S.C. 1790d) and part 702 of this chapter. This subpart also does not apply to enforcement-related actions and decisions, including determinations and the underlying facts and circumstances that form the basis of a pending enforcement action.

§ 746.102 Definitions.

For purposes of this subpart:

Board means the NCUA Board.

Committee means the Supervisory Review Committee.

Director of the Office of Examination and Insurance has the same meaning as used in § 790.2 of this chapter but also includes individuals designated by the Director of the Office of Examination and Insurance from among senior Office of Examination and Insurance staff to handle requests for review by the Director of the Office of Examination and Insurance pursuant to § 746.106 of this subpart.

Material Supervisory Determination is defined in § 746.103 of this subpart.

Petitioner means an entity, including a program office, requesting reconsideration, review, or filing an appeal pursuant to the procedures set forth in this subpart.

Program Office means the office within NCUA responsible for making a material supervisory determination.

Respondent means an entity, including a program office, defending against an action by a petitioner.

Special Counsel to the General Counsel or *Special Counsel* means an individual within the Office of General Counsel providing legal or procedural advice to the Committee in accordance with the procedures set forth in this subpart.

§ 746.103 Material Supervisory Determination.

(a) *Material Supervisory Determination.* The term ''material supervisory determination'' means a written decision by a program office that may significantly affect the capital, earnings, operating flexibility, or that may otherwise affect the nature and level of supervisory oversight of a federally insured credit union. The term includes, but is not limited to:

(1) Composite examination ratings of 3, 4, or 5;

(2) Determinations relating to the adequacy of loan loss reserve provisions;

(3) Classifications of loans and other assets that are significant to a federally insured credit union;

(4) Restitution orders pursuant to the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) and its implementing regulation, Regulation Z (12 CFR part 1026); and

(5) Determinations on a waivers request or an application for additional authority where independent appeal procedures have not been specified in other NCUA regulations.

(b) *Exclusions from Coverage.* The term ''material supervisory determination'' does not include:

(1) Composite examination ratings of 1 or 2;

(2) Component examination ratings unless such ratings have a significant adverse effect on the nature and level of supervisory oversight of a federally insured credit union;

(3) The scope and timing of supervisory contacts;

(4) Decisions to appoint a conservator or liquidating agent for a federally insured credit union;

(5) Decisions to take prompt corrective action pursuant to section 216 of the Federal Credit Union Act (12 U.S.C. 1790d) and part 702 of this chapter;

(6) Enforcement-related actions and decisions, including determinations and the underlying facts and circumstances that form the basis of a pending enforcement action;

(7) Preliminary examination conclusions communicated to a federally insured credit union before a final exam report or other written communication is issued;

(8) Formal and informal rulemakings pursuant to the Administrative Procedure Act (5 U.S.C. 500 *et seq.*);

(9) Requests for NCUA records or information under the Freedom of Information Act (5 U.S.C. 552) and part 792 of this chapter and the submission of information to NCUA that is governed by this statute and this regulation; and

(10) Determinations for which other appeals procedures exist.

§ 746.104 General Provisions.

(a) *Standard of Review.* The burden of showing an error in an appealed determination shall rest solely with the petitioner. Review shall be *de novo.*

(b) *Dismissal and Withdrawal.* Any appeal under this subpart may be dismissed by written notice if it is not timely filed; if the basis for the appeal is not discernable; if the petitioner asks to withdraw the request in writing; if any party fails to provide additional

information requested pursuant to any authority granted in this subpart; if any party engages in bad faith; or for reasons deemed appropriate by the reviewing authority.

(c) *Discovery.* No provision of this subpart is intended to create any right to discovery or similar process.

(d) *Supervisory or Enforcement Actions Not Affected.* No provision of this subpart is intended to affect, delay, or impede any formal or informal supervisory or enforcement action in progress or affect NCUA's authority to take any supervisory or enforcement action against a federally insured credit union.

(e) *Additional Authority and Waiver Requests During the Pendency of an Appeal.* A program office will not consider a waiver request or an application for additional authority that could be affected by the outcome of an appeal of a material supervisory determination unless specifically requested by the federally insured credit union appealing the material supervisory determination. Any deadline for a program office to decide a waiver request or an application for additional authority set forth in any part of this chapter shall be suspended until the federally insured credit union appealing a material supervisory determination has exhausted its administrative remedies under this subpart or may no longer appeal the material supervisory determination, whichever is later.

§ 746.105 Procedures for Reconsideration From the Appropriate Program Office.

(a) *Reconsideration.* A federally insured credit union must make a written request for reconsideration from the appropriate program office prior to requesting review by the Director of the Office of Examination and Insurance pursuant to § 746.106 or filing an appeal with the Committee pursuant to § 746.107. Such a request must be made within 30 calendar days after receiving an examination report containing a material supervisory determination or other official written communication of a material supervisory determination. A request for reconsideration must be in writing and filed with the appropriate program office.

(b) *Content of Request.* Any request for reconsideration must include:

(1) A statement of the facts on which the request for reconsideration is based;

(2) A statement of the basis for the material supervisory determination to which the petitioner objects and the alleged error in such determination; and

(3) Any other evidence relied upon by the petitioner that was not previously provided to the appropriate program office making the material supervisory determination.

(c) *Decision.* Within 30 calendar days after receiving a request for reconsideration, the appropriate program office shall issue a written decision, stating the reasons for the decision, and provide written notice of the right to file a request for review by the Director of the Office of Examination and Insurance pursuant to § 746.106 or file an appeal with the Committee pursuant to § 746.107. If a written decision is not issued within 30 calendar days, the request for reconsideration will be deemed to have been denied.

(d) *Subsequent Requests for Reconsideration.* Any subsequent request for reconsideration following an initial request made pursuant to this section will be treated as a request for review by the Director of the Office of Examination and Insurance pursuant to § 746.106 or an appeal to the Committee pursuant to § 746.107 as determined by the Secretary of the Board after consultation with the federally insured credit union.

§ 746.106 Procedures for Requesting Review by the Director of Office of Examination and Insurance.

(a) *Request for Review.* Prior to filing an appeal with the Committee pursuant to § 746.107, but after receiving a written decision by the appropriate program office in response to a request for reconsideration pursuant to § 746.105, a federally insured credit union may make a written request for review by the Director of the Office of Examination and Insurance of the program office's material supervisory determination. Such a request must be made within 30 calendar days after a final decision on reconsideration is made by the appropriate program office. A request for review must be in writing and filed with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

(b) *Content of Request.* Any request for review by a federally insured credit union must include:

(1) A statement that the federally insured credit union is requesting review by the Director of the Office of Examination and Insurance;

(2) A statement of the facts on which the request for review is based;

(3) A statement of the basis for the material supervisory determination to which the federally insured credit union objects and the alleged error in such determination;

(4) Any other evidence relied upon by the federally insured credit union that was not previously provided to the appropriate program office making the material supervisory determination; and

(5) A certification that the board of directors of the federally insured credit union has authorized the request for review to be filed.

(c) *Conduct of Review.* Review of a material supervisory determination shall be based on the written submissions provided under paragraph (b) of this section. The Director of the Office of Examination and Insurance may request additional information from the appropriate program office or the federally insured credit union within 15 calendar days after the Secretary of the Board receives a request for review by the Director of the Office of Examination and Insurance. The relevant party must submit the requested information to the Director of the Office of Examination and Insurance within 15 calendar days after receiving such request for additional information. The Director of the Office of Examination and Insurance may consult with the parties jointly or separately before rendering a decision and may solicit input from any other pertinent program office as necessary.

(d) *Decision.* Within 30 calendar days after the Secretary of the Board receives a request for review, the Director of the Office of Examination and Insurance shall issue a written decision, stating the reasons for the decision, and provide written notice of the right to file an appeal with the Committee pursuant to § 746.107. The 30 calendar day deadline is extended by the time period during which the Director of the Office of Examination and Insurance is gathering additional information. If a written decision is not issued within 30 calendar days, as extended by additional time during which the information is being gathered, the request for review will be deemed to have been denied.

(e) *Subsequent Requests for Review.* No party may request reconsideration of the decision rendered by the Director of the Office of Examination and Insurance. Any subsequent request for review following the rendering of a decision by the Director of the Office of Examination and Insurance will be treated as an appeal to the Committee.

§ 746.107 Procedures for Appealing to the Supervisory Review Committee.

(a) *Request for Appeal.* After receiving a written decision by the appropriate program office in response to a request for reconsideration pursuant to § 746.105, a petitioner may file an

appeal with the Committee. Such an appeal must be filed within 30 calendar days after receiving a written decision by the appropriate program office on reconsideration or, if the petitioner requests review by the Director of the Office of Examination and Insurance pursuant to § 746.106, within 30 calendar days after a final decision is made by the Director of the Office of Examination and Insurance. An appeal must be in writing and filed with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

(b) *Content of Appeal.* Any appeal must include:

(1) A statement that the petitioner is filing an appeal with the Committee;

(2) A statement of the facts on which the appeal is based;

(3) A statement of the basis for the determination to which the petitioner objects and the alleged error in such determination;

(4) Any other evidence relied upon by the petitioner that was not previously provided to the appropriate program office or, if applicable, the Director of the Office of Examination and Insurance; and

(5) For federally insured credit unions, a certification that its board of directors has authorized the appeal to be filed.

(c) *Conduct of Appeal.* The following procedures shall govern the conduct of an appeal to the Committee:

(1) *Submission of Written Materials.* The Committee may request additional information from either of the parties within 15 calendar days after the filing of an appeal. The parties must submit the requested information to the Committee within 15 calendar days after receiving a request for additional information.

(2) *Oral Hearing; Duration; Location.* Except where a federally insured credit union, as either petitioner or respondent, has requested that an appeal be based entirely on the written record, an appeal shall also consist of oral presentations to the Committee at NCUA headquarters. The introduction of written evidence or witness testimony may also be permitted at the oral hearing. The petitioner shall argue first. Each side shall be allotted a specified and equal amount of time for its presentation, of which a portion may be reserved for purposes of rebuttal. This time limit shall be set by the Committee and will be based on the complexity of the appeal. Committee members may ask questions of any individual appearing before it.

(3) *Appearances; Representation.* The parties shall submit a notice of appearance identifying the individual(s) who will be representing them in the oral presentation. The federally insured credit union shall designate not more than two officers, employees, or other representatives including counsel, unless authorized by the Committee. The program office shall designate not more than two individuals, one of whom may be an enforcement attorney from NCUA's Office of General Counsel, unless authorized by the Committee.

(d) *Decision.* Within 30 calendar days after the oral presentation of the appeal to the Committee, the Committee shall issue a decision in writing, stating the reasons for the decision, and provide the petitioner with written notice of the right to file an appeal with the NCUA Board (if applicable). If a federally insured credit union has requested that an appeal be entirely based on the written record, the Committee shall issue a decision within 30 calendar days from the date of receipt of an appeal by the Secretary of the Board. The 30 calendar day deadline to decide an appeal based entirely on the written record is extended by any time period during which the Committee is gathering additional information pursuant to paragraph (c)(1) of this section.

(e) *Publication.* The Committee shall publish its decisions on NCUA's Web site with appropriate redactions to protect confidential or exempt information. In cases where redaction is insufficient to prevent improper disclosure, published decisions may be presented in summary form. Published decisions may be cited as precedent in appeals to the Committee.

(f) *Consultation With Office of Examination and Insurance or Office of General Counsel Required.* If an appeal involves the interpretation of material supervisory policy or generally accepted accounting principles, the Committee shall notify the Director of the Office of Examination and Insurance of the appeal and solicit input from the Office of Examination and Insurance. If an appeal involves the interpretation of legal requirements, including NCUA's regulations, the Committee shall notify the General Counsel of the appeal and solicit input from the Office of General Counsel.

(g) *Supplemental Procedures Authorized.* In addition to the procedures contained in this subpart, the Committee Chairman may adopt supplemental procedures governing the operations of the Committee, order that material be kept confidential, or consolidate appeals that present similar issues of law or fact.

§ 746.108 Composition of Supervisory Review Committee.

(a) *Formation and Composition of Committee Pool.* The NCUA Chairman shall select not less than eight members from among senior staff in the regional offices, the Office of the Executive Director, the Office of Examination and Insurance, the Office of National Examination and Supervision, the Office of Small Credit Union Initiatives, and the Office of Consumer Financial Protection and Access to serve along with the Committee Chairman as a Committee pool from which the Committee Chairman may select Committee members. None of the members appointed by the NCUA Chairman shall also serve as a regional director, associate regional director, executive director, deputy executive director, general counsel, or a senior policy advisor or chief of staff to a Board Member.

(b) *Term of Office for Members of Committee Pool.* Each member of the Committee pool shall serve for a one year term and may be reappointed by the NCUA Chairman for additional terms.

(c) *Designation and Role of Committee Chairman.* The Secretary of the Board shall serve as permanent Committee Chairman. The Committee Chairman shall be responsible for designating three Committee members (one of whom may be the Committee Chairman) from among the Committee pool to hear a particular appeal.

(d) *Selection Criteria.* When selecting Committee members to hear an appeal pursuant to paragraph (c), the Committee Chairman shall consider any real or apparent conflicts of interest that may impact the objectivity of the Committee member as well as that individual's experience with the subject matter of the appeal.

(e) *Interested Staff Ineligible.* Members of the Committee pool from the program office that made the material supervisory determination that is the subject of the appeal are ineligible to serve on the Committee for that appeal. Members of the Committee pool from the Office of Examination and Insurance are ineligible to serve on the Committee for appeals where the petitioner previously requested review by the Director of the Office of Examination and Insurance pursuant to § 746.106.

(f) *Role of the Special Counsel.* The Special Counsel to the General Counsel shall serve as a permanent nonvoting member of the Committee to advise on procedural and legal matters.

(g) *Quorum; Meetings.* A quorum of two Committee members (excluding the

Special Counsel) shall be present at each Committee meeting and a majority vote of a quorum is required for an action on an appeal. Meetings of the Committee will not be open to the public.

§ 746.109 Procedures for Appealing to the NCUA Board.

(a) *Request for Appeal.* A petitioner may file an appeal with the Board challenging a decision by the Committee within 30 calendar days after receiving that decision. An appeal must be in writing and filed with the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

(b) *Granting an Appeal.* At least one Board Member must agree to consider an appeal from a decision by the Committee. If a request for an oral hearing pursuant to § 746.111 is granted, the Secretary of the Board will notify the parties of the time and location where the oral hearing shall be heard. Except in unusual circumstances, any appeal shall be held at NCUA headquarters. If at least one Board Member does not agree to consider an appeal from a decision by the Committee within 20 days of receiving a request, the request will be deemed to have been denied.

(c) *Failure to File a Timely Appeal.* A petitioner that fails to file an appeal within the specified 30-day period shall be deemed to have waived all claims pertaining to the matters in issue.

(d) *Certain Actions Not Reviewable.* Notwithstanding any other provision of this subpart, Committee decisions on the denial of a technical assistance grant reimbursement are final decisions of NCUA and may not be appealed to the Board.

(e) *Content of Appeal.* Any request for appeal must include:

(1) A statement of the facts on which the appeal is based;

(2) A statement of the basis for the determination to which the petitioner objects and the alleged error in such determination; and

(3) For federally insured credit unions, a certification that its board of directors has authorized the appeal to be filed.

(f) *Amending or Supplementing the Appeal.* The petitioner may amend or supplement the appeal in writing within 15 calendar days from the date the Secretary of the Board receives an appeal. If the petitioner amends or supplements the appeal, the respondent will be permitted to file responsive materials within 15 calendar days.

(g) *Request for Oral Hearing.* In accordance with § 746.111, the petitioner may request an opportunity to appear before the Board to make an oral presentation in support of the appeal.

§ 746.110 Administration of the Appeal.

(a) *Conduct of Appeal.* Except as otherwise provided in § 746.111, the following procedures shall govern the conduct of an appeal to the Board:

(1) *Review Based on Written Record.* The appeal of a material supervisory determination shall be entirely based on the written record.

(2) *Submission of Written Materials.* The Board or the Special Counsel to the General Counsel may request additional information to be provided in writing from either of the parties within 15 calendar days after the filing of an appeal, any amendments or supplementary information to the appeal documents by the petitioner, or any responsive materials by the respondent, whichever is later. The parties must submit the requested information to the Board or the Special Counsel within 15 calendar days of receiving a request for additional information.

(b) *Decision.* The Board shall issue a decision within 90 calendar days, unless there is an oral hearing, from the date of receipt of an appeal by the Secretary of the Board. The decision by the Board shall be in writing, stating the reasons for the decision, and shall constitute a final agency action for purposes of chapter 7 of title 5 of the United States Code. Failure by the Board to issue a decision on an appeal within the 90-day period, unless there is an oral hearing, shall be deemed to be a denial of the appeal.

(c) *Publication.* The Board shall publish its decisions on NCUA's Web site with appropriate redactions to protect confidential or exempt information. In cases where redaction is insufficient to prevent improper disclosure, published decisions may be presented in summary form. Published decisions may be cited as precedent.

§ 746.111 Oral Hearing.

(a) *Request for Oral Hearing.* The petitioner may request to appear before the Board to make an oral presentation in support of the appeal. The request must be submitted with the initial appeal documents and should be in the form of a separate written document titled ''Request for Oral Hearing.'' The request must show good cause for an oral presentation and state reasons why the appeal cannot be presented adequately in writing.

(b) *Action on the Request.* The Board shall determine whether to grant the request for oral hearing and shall direct the Secretary of the Board to serve notice of the Board's determination in writing to the parties. A request for oral hearing shall be granted with the approval of any Board Member within 20 days of receiving a request for an oral hearing.

(c) *Effect of Denial.* In the event a request for an oral hearing is denied, the appeal shall be reviewed by the Board on the basis of the written record.

(d) *Procedures for Oral Hearing.* The following procedures shall govern the conduct of any oral hearing:

(1) *Scheduling of Oral Hearing; Location.* The Secretary of the Board shall notify the parties of the date and time for the oral hearing, making sure to provide reasonable lead time and schedule accommodations. The oral hearing will be held at NCUA headquarters; *provided, however,* that on its own initiative or at the request of the petitioner, the NCUA Chairman may in his or her sole discretion allow for an oral hearing to be conducted via teleconference or video conference facilities.

(2) *Appearances; Representation.* The parties shall submit a notice of appearance identifying the individual(s) who will be representing them in the oral presentation. The federally insured credit union shall designate not more than two officers, employees, or other representatives including counsel, unless authorized by the NCUA Chairman. The program office shall designate not more than two individuals one of whom may be an enforcement attorney from NCUA's Office of General Counsel, unless authorized by the NCUA Chairman.

(3) *Conduct of Oral Hearing.* The oral hearing shall consist entirely of oral presentations. The introduction of written evidence or witness testimony shall not be permitted at the oral hearing. The petitioner shall argue first. Each side shall be allotted a specified and equal amount of time for its presentation, of which a portion may be reserved for purposes of rebuttal. This time limit shall be set by the Board and will be based on the complexity of the appeal. Members of the Board may ask questions of any individual appearing before the Board.

(4) *Transcript.* The oral hearing shall be on the record and transcribed by a stenographer, who will prepare a transcript of the proceedings. The stenographer will make the transcript available to the federally insured credit union upon payment of the cost thereof.

(e) *Confidentiality.* An oral hearing as provided for herein constitutes a meeting of the Board within the meaning of the Government in the

Sunshine Act (5 U.S.C. 552b). The Chairman shall preside over the conduct of the oral hearing. The meeting will be closed to the public to the extent that one or more of the exemptions from public meetings apply as certified by NCUA's Office of General Counsel. The Board shall maintain the confidentiality of any information or materials submitted or otherwise obtained in the course of the procedures outlined herein, subject to applicable law and regulations.

(f) *Conclusion of the Oral Hearing.* The Board shall take the oral presentations under advisement. The Board shall render its decision on the appeal in accordance with § 746.110.

§ 746.112 Retaliation Prohibited.

(a) *Retaliation Prohibited.* NCUA staff may not retaliate against a federally insured credit union making any type of appeal. Alleged acts of retaliation should be reported to the NCUA Office of Inspector General, which is authorized to receive and investigate complaints and other information regarding abuse in agency programs and operations.

(b) *Submission of Complaints.* Federally insured credit unions may submit complaints of suspected retaliation to the NCUA Office of Inspector General, 1775 Duke Street, Alexandria, VA 22314–3428. Complaints should include an explanation of the circumstances surrounding the complaint and evidence of any retaliation. Information submitted as part of a complaint shall be kept confidential.

(c) *Disciplinary Action.* Any retaliation by NCUA staff will subject the employee to appropriate disciplinary or remedial action by the appropriate supervisor. Such disciplinary or remedial action may include oral or written warning or admonishment, reprimand, suspension or separation from employment, change in assigned duties, or disqualification from a particular assignment, including prohibition from participating in any examination of the federally insured credit union that was the subject of the retaliation.

§ 746.113 Coordination with State Supervisory Authority.

(a) *Coordination when Request for Review by the Director of the Office of Examination and Insurance Filed.* In the event that a material supervisory determination subject to a request for review by the Director of the Office of Examination and Insurance is the joint product of NCUA and a state supervisory authority, the Director of the Office of Examination and Insurance will promptly notify the appropriate state supervisory authority of the request for review, provide the state supervisory authority with a copy of the request for review and any other related materials, solicit the state supervisory authority's views regarding the merits of the request for review before making a determination, and notify the state supervisory authority of the Director's determination.

(b) *Coordination when Appeal to Supervisory Review Committee Filed.* In the event that a material supervisory determination appealed to the Committee is the joint product of NCUA and a state supervisory authority, the Committee will promptly notify the state supervisory authority of the appeal, provide the state supervisory authority with a copy of the appeal and any other related materials, solicit the state supervisory authority's views regarding the merits of the appeal before making a determination, and notify the state supervisory authority of the Committee's determination. Once the Committee has issued its determination, any other issues that may remain between the federally insured credit union and the state supervisory authority will be left to those parties to resolve.

(c) *Coordination when Appeal to Board Filed.* In the event that a material supervisory determination appealed to the Board is the joint product of NCUA and a state supervisory authority, the Board will promptly notify the state supervisory authority of the appeal, provide the state supervisory authority with a copy of the appeal and any other related materials, solicit the state supervisory authority's views regarding the merits of the appeal before making a determination, and notify the state supervisory authority of the Board's determination. Once the Board has issued its determination, any other issues that may remain between the federally insured credit union and the state supervisory authority will be left to those parties to resolve.

[FR Doc. 2017–11320 Filed 6–6–17; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0511; Directorate Identifier 2016–NM–176–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This proposed AD was prompted by a new life limitation that has been introduced for the side brace fitting shaft and side brace-to-airplane fitting pin of the main landing gear (MLG). This proposed AD would require revising the maintenance or inspection program. This proposed AD would also require an inspection to identify the serial number, to serialize, and to record the accumulated life of the side brace fitting shaft of the MLG. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 24, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0511; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0511; Directorate Identifier 2016–NM–176–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–17R2, dated June 29, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The MCAI states:

> Based on in-service experience, a new life limitation has been introduced for the following side brace fitting shaft part numbers:
> - 600–10237–1/–5
> - 600–10237–3
> - 601R10237–1/–3
>
> In order to facilitate identification and tracking, the component must be identified and serialized. Bombardier has revised the Time Limits/Maintenance Checks (TLMC) Manual to include new life limits and issued Service Bulletins (SB) for serialization of the affected parts.
>
> The original version of this [Canadian] AD was issued to mandate the incorporation of the new TLMC life limits as well as identification and serialization of the affected parts. The revision 1 of this [Canadian] AD was issued * * * June [10,] 2016 to correct a typographic error in Table A of the Corrective Actions section. The revision 2 of this [Canadian] AD is being issued to correct/update the TLMC data in Table A of the Corrective Actions section.

Required actions include an inspection to identify the serial number, to serialize, and to record the accumulated life of the side brace fitting shaft of the MLG. The unsafe condition is the loss of structural integrity of the affected part. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0511.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information. The service information describes the life limits for the side brace fitting shaft and side brace-to-airplane fitting pin of the MLG. The service information is distinct since it applies to different airplane models in different configurations.

- Chapter 5–10–10, Airworthiness Limitations, of the Bombardier Challenger PSP 605 Time Limits/Maintenance Checks, Revision 37, dated April 29, 2016.
- Chapter 5–10–10, Airworthiness Limitations, of the Bombardier Challenger PSP 601–5 Time Limits/Maintenance Checks, Revision 42, dated April 22, 2014.
- Chapter 5–10–10, Airworthiness Limitations, of the Bombardier Challenger PSP 601A–5 Time Limits/Maintenance Checks, Revision 38, dated April 22, 2014.
- Chapter 5–10–10, Airworthiness Limitations, of Part 2, of the Bombardier Challenger CL–604 Time Limits/Maintenance Checks, Revision 26, dated June 9, 2016.
- Chapter 5–10–10, Airworthiness Limitations, of Part 2, of the Bombardier Challenger CL–605 Time Limits/Maintenance Checks, Revision 14, dated June 9, 2016.

We have also reviewed the following service information. The service information describes procedures for an inspection to identify the serial number, to serialize, and to record the accumulated life of the side brace fitting shaft of the MLG. The service bulletins are distinct since they apply to different airplane models.

- Bombardier Service Bulletin 600–0768, dated September 9, 2014.
- Bombardier Service Bulletin 601–0636, Revision 01, dated May 10, 2016.
- Bombardier Service Bulletin 604–57–005, dated September 9, 2014.
- Bombardier Service Bulletin 605–57–003, dated September 9, 2014.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 133 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance or inspection program revision	1 work-hour × $85 per hour = $85	$0	$85	$11,305
Inspection, identification, serialization, and recording.	1 work-hour × $85 per hour = $85	33	118	15,694

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2017–0511; Directorate Identifier 2016–NM–176–AD.

(a) Comments Due Date

We must receive comments by July 24, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes specified in paragraphs (c)(1) through (c)(3) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–1A11 (CL–600) airplanes, serial numbers 1004 through 1085 inclusive.

(2) Bombardier, Inc. Model CL–600–2A12 (CL–601 Variant) airplanes, serial numbers 3001 through 3066 inclusive.

(3) Bombardier, Inc. Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, serial numbers 5001 through 5194 inclusive; serial numbers 5301 through 5665 inclusive, and serial numbers 5701 through 5851 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a new life limitation that has been introduced for the side brace fitting shaft and side brace-to-airplane fitting pin of the main landing gear (MLG). We are issuing this AD to prevent the loss of structural integrity of the affected part.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the life limits for the side brace fitting shaft and side brace-to-airplane fitting pin of the MLG, as applicable, identified in table 1 to paragraph (g) of this AD. The initial compliance time for accomplishing the replacement is at the applicable time in the Time Limits/Maintenance Checks (TLMC) Manual revisions specified in table 1 to paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—LIFE LIMITS FOR THE AFFECTED PARTS

Airplane model (Serial Nos. (S/Ns))	Part name	Part No.	TLMC manual No.	Chapter	Revision No.	Revision date
CL–600–1A11 (S/Ns 1004 through 1085 inclusive).	MLG Side Brace-to-Airplane Fitting Pin.	600–10237–1/–5	PSP 605	5–10–10	37	April 29, 2016.
CL–600–2A12 (S/N 3001–3066 inclusive).	MLG Side Brace-to-Airplane Fitting Pin.	600–10237–3	PSP 601–5	5–10–10	42	April 22, 2014.
CL–600–2B16 (S/Ns 5001–5194 inclusive).	MLG Side Brace-to-Airplane Fitting Pin.	600–10237–3	PSP 601A–5	5–10–10	38	April 22, 2014.
CL–600–2B16 (S/Ns 5301–5665 inclusive).	MLG Side Brace Fitting Shaft	601R10237–1/–3	CL–604	5–10–10 (Part 2)	26	June 9, 2016.
CL–600–2B16 (S/Ns 5701–5851 inclusive).	MLG Side Brace Fitting Shaft	601R10237–1/–3	CL–605	5–10–10 (Part 2)	14	June 9, 2016.

(h) Inspection, Serialization, and Recording of Life Limited Parts

Within 48 months after the effective date of this AD: Inspect to identify the serial number, serialize, and record the accumulated life of the side brace fitting shaft of the MLG, as applicable, in accordance with the Accomplishment Instructions of the applicable service information in paragraphs (h)(1) through (h)(4) of this AD.

(1) For CL–600–1A11 airplanes (S/Ns 1004 through 1085 inclusive): Bombardier Service Bulletin 600–0768, dated September 9, 2014.

(2) For CL–600–2A12 (S/Ns 3001 through 3066 inclusive) and CL–600–2B16 airplanes (S/Ns 5001 through 5194 inclusive): Bombardier Service Bulletin 601–0636, Revision 01, dated May 10, 2016.

(3) For CL–600–2B16 aeroplanes (S/Ns 5301 through 5665 inclusive): Bombardier Service Bulletin 604–57–005, dated September 9, 2014.

(4) For CL–600–2B16 aeroplanes (S/Ns 5701 through 5851 inclusive): Bombardier Service Bulletin 605–57–003, dated September 9, 2014.

(i) No Reporting Requirement

Although the service information identified in paragraphs (h)(1) through (h)(4) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) No Alternative Actions and Intervals

After the maintenance or inspection program has been revised, as applicable, as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York Aircraft Certification Office, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–17R2, dated June 29, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0511.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 18, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–11001 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9549; Airspace Docket No. 17–ASO–5]

Proposed Amendment of Class E Airspace, Alexander City, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Alexander City, AL, due to the decommissioning of the Alexander City non-directional beacon (NDB), which requires airspace reconfiguration at Thomas C Russell Field Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before July 24, 2017.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20590; Telephone: 1–(800)–647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2016–9549; Airspace Docket No. 17–ASO–5, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Thomas C Russell Field Airport, Alexander City,

AL to ensure the safety and management of IFR operations at the airport.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. You may also submit comments through the Internet at *http://www.regulations.gov*.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–9549; Airspace Docket No. 17–ASO–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet or more above the surface within a 7.7-mile radius of Thomas C Russell Field Airport, Alexander City, AL. The segment extending from the 7.7-mile radius of the airport to 7 miles south of the Alexander City NDB would be removed due to the decommissioning of the Alexander City NDB and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO AL E5 Alexander City, AL [Amended]

Thomas C. Russell Field Airport, AL
(Lat. 32°54′53″ N., long. 85°57′47″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Thomas C. Russell Field Airport.

Issued in College Park, Georgia, on May 19, 2017.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–11395 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0388; Airspace Docket No. 17–AGL–13]

Proposed Amendment of Class E Airspace; Medford, WI and Waupaca, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending up to 700 feet above the surface at Taylor County Airport, Medford, WI and Waupaca Municipal Airport, Waupaca, WI, to accommodate new standard instrument approach procedures (SIAPS) for instrument flight rules (IFR) operations at these airports. This action is necessary due to the decommissioning of the Medford and Waupaca non directional radio beacons (NDB), and cancellation of NDB approaches. This action would enhance the safety and management of IFR operations at these airports.

DATES: Comments must be received on or before July 24, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–0388 and Airspace Docket No. 17–AGL–13, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11A, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Ron Laster, Federal Aviation Administration, Contract Support, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5879.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace in Class E to ensure the safety of IFR operations at Taylor County and Waupaca Municipal airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers (FAA Docket No. FAA–2017–0388 and Airspace Docket No. 17–AGL–13) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number.) You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0388/Airspace Docket No. 17–AGL–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Taylor County Airport in Medford WI. The Agency proposes to retain the current Class E airspace within a 6.8-mile radius of the airport and to remove the segment of airspace within 2.7 miles each side of the 162° bearing from the airport extending from the 6.8-mile radius to 7 miles southeast of the airport due to the decommissioning of the Medford NDB and cancellation of the NDB approach.

The agency also proposes to modify the Class E airspace extending upward from 700 feet above the surface at Waupaca Municipal Airport, Waupaca,

WI. The agency proposes to retain the current Class E airspace within a 6.4-mile radius of the airport and to remove the segment within 2.7 miles each side of the 118° bearing from the airport, extending from the 6.4-mile radius area to 7 miles southeast of the airport due to the decommissioning of the Waupaca NDB and cancellation of the NDB approach. This proposal would enhance the safety and management of the SIAPs for IFR operations at these airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

AGL WI E5 Medford, WI [Amended]

Taylor County Airport, WI
(Lat. 45°06′05″ N., long. 90°18′01″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Taylor County Airport.

AGL WI E5 Waupaca, WI [Amended]

Waupaca Municipal Airport, WI
(Lat. 44°20′00″ N., long. 89°01′23″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Waupaca Municipal Airport.

Issued in Fort Worth, Texas on May 31, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–11678 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9453; Airspace Docket No. 16–AEA–12]

Proposed Amendment of Class E Airspace, Hot Springs, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface at Hot Springs, VA, by adding controlled airspace for Bath Community Hospital Heliport to the Ingalls Field Airport airspace designation. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the heliport. This action also would update the geographic coordinates of Ingalls Field Airport in the associated Class E airspace.

DATES: Comments must be received on or before July 24, 2017.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20590; Telephone: 1–800–647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2016–9453; Airspace Docket No. 16–AEA–12, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part

A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add Class E airspace extending upward from 700 feet above the surface at Bath Community Hospital Heliport to the existing designation of Class E airspace at Ingalls Field Airport, Hot Springs, VA.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–9453; Airspace Docket No. 16–AEA–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes to amend Title 14, Code of Federal Regulations (14 CFR) part 71 by adding Class E airspace extending upward from 700 feet above the surface within a 7-mile radius of Bath Community Hospital Heliport to the existing designation of Class E airspace at Ingalls Field Airport, Hot Springs, VA. This action would accommodate new Area Navigation (RNAV) Global Positioning System Standard Instrument Approach Procedures at the heliport. Airspace reconfiguration is necessary for the safety and management of IFR operations at the heliport. The FAA also proposes to update the geographic coordinates of Ingalls Field Airport to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6002, and 6005, respectively of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, effective September 15, 2016, is amended as follows:

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA VA E2 Hot Springs, VA [Amended]

Ingalls Field Airport, Hot Springs, VA
(Lat. 37°57′09″ N., long. 79°50′03″ W.)

Within a 4-mile radius of Ingalls Field Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5 Hot Springs, VA [Amended]

Ingalls Field Airport, VA
(Lat. 37°57′09″ N., long. 79°50′03″ W.)
Bath Community Hospital Heliport, VA
(Lat. 37°59′36″ N., long. 79°49′55″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5- mile radius of Ingalls Field Airport, and within a 7-mile radius of Bath Community Hospital Heliport.

Issued in College Park, Georgia, on May 19, 2017.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–11394 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 1

[Docket ID FEMA–2017–0016]

RIN 1660–AA91

Update to FEMA's Regulations on Rulemaking Procedures

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Emergency Management Agency (FEMA) proposes to revise its regulations pertaining to rulemaking. It proposes to remove sections that are outdated or do not affect the public, and it proposes to update provisions that affect the public's participation in the rulemaking process, such as the submission of public comments, hearings, ex parte communications, the public rulemaking docket, and petitions for rulemaking. FEMA also proposes to modify its waiver of the Administrative Procedure Act exemption for matters relating to public property, loans, grants, benefits, and contracts.

DATES: Comments must be received on or before August 7, 2017.

ADDRESSES: You may submit comments, identified by Docket ID FEMA–2017–0016, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail/Hand Delivery/Courier: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Liza Davis, Associate Chief Counsel, Regulatory Affairs, Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–4046, or (email) *liza.davis@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

We encourage you to participate in this rulemaking by submitting comments and related materials. We will consider all comments and material received during the comment period.

If you submit a comment, identify the agency name and the docket ID for this rulemaking, indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, or delivery to the address under the **ADDRESSES** section. Please submit your comments and material by only one means.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal e-Rulemaking 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 and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

Viewing comments and documents: For access to the docket to read background documents or comments received, go to the Federal e-Rulemaking Portal at *http://www.regulations.gov.* Background documents and submitted comments may also be inspected at FEMA, Office of Chief Counsel, 500 C Street SW., Washington, DC 20472–3100.

II. Background

FEMA established its regulations regarding its rulemaking procedures in 1981, in 44 Code of Federal Regulations (CFR) part 1.[1] FEMA has not substantively updated part 1 since that time. Part 1 is based on a rescinded Executive Order, Executive Order 12291, entitled ''Federal Regulation,'' and obsolete agency procedure, which was relevant when FEMA was an independent agency,[2] but is no longer accurate, as FEMA is no longer an independent agency. FEMA now includes its internal rulemaking procedures addressing the development, drafting, and clearance of FEMA rules in internal guidance.

In this proposed rule, FEMA proposes a wholesale revision of part 1, removing sections that solely address internal agency procedure, and retaining and updating sections that directly affect the public's participation in FEMA's rulemaking process, namely, provisions addressing ex parte communications in rulemaking, petitions for rulemaking, the public rulemaking docket, hearings, and the process for submitting public comments on rules.

FEMA is also proposing to modify its waiver of the Administrative Procedure Act exemption for matters relating to public property, loans, grants, benefits, and contracts.

Section III of this preamble includes a section-by-section analysis of the current regulations and an explanation of the changes to each section.

III. Section-by-Section Analysis of the Current Regulations and Proposed Changes

Section 1.1 Purpose

Paragraph (a) of current section 1.1 states that 44 CFR part 1 covers FEMA's basic policies and procedures for adoption of rules, and that it incorporates provisions of section 4 of the Administrative Procedure Act. Section 4 of the Administrative Procedure Act (5 U.S.C. 553) addresses Federal agency requirements for notice and comment rulemaking. Notice and comment rulemaking is also known as ''informal rulemaking.'' Paragraph (a) of current section 1.1 also includes a statement that 44 CFR part 1 and internal FEMA manuals implement Executive Order 12291.

FEMA proposes to limit the purpose of part 1 to describing FEMA's informal rulemaking procedures that affect the public. This proposed rule therefore does not describe FEMA's internal rulemaking procedures, which are more appropriately placed in internal guidance. FEMA proposes these changes for a number of reasons. First, the Administrative Procedure Act does not require internal agency procedure to be in regulation. *See* 5 U.S.C. 553(a)(2), 553(b)(A). Second, and more importantly, the references to Executive Order 12291 and implementing FEMA procedures are outdated. As noted above, Executive Order 12291 has been revoked, and was replaced with Executive Order 12866, ''Regulatory

[1] *See* 46 FR 32583 (June 24, 1981) (final rule establishing 44 CFR part 1); *see also* 44 FR 50299 (Aug. 27, 1979) (proposed rule proposing to establish 44 CFR part 1).

[2] FEMA became a component agency of the Department of Homeland Security on March 1, 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (codified as amended at 6 U.S.C. 101 *et seq.*).

Planning and Review.'' [3] Executive Order 12866 imposed major changes to the regulatory review process of the Federal government, such as establishing a definition of ''significant'' rulemakings and requiring a 90-day review by the Office of Management and Budget (OMB) of those rulemakings.

Thus, FEMA proposes to state in paragraph (a) of proposed section 1.1 simply that part 1 contains FEMA's informal rulemaking procedures that affect the public. Note that FEMA does not currently address formal rulemaking in its regulations,[4] and does not propose to do so, as FEMA has never engaged in formal rulemaking and has no plans to do so. If the need or opportunity for a formal rulemaking should arise, FEMA will consider issuing regulations or guidance regarding formal rulemaking procedures at that time.

The Freedom of Information Act (FOIA), located in section 3(a) of the Administrative Procedure Act, requires certain agency documents to be published in the **Federal Register** for the guidance of the public. *See* 5 U.S.C. 552(a). Paragraph (b) of current section 1.1 states that FEMA's implementation of this requirement is contained in 44 CFR part 5, subpart B, but subpart B was removed when the Department of Homeland Security (DHS) updated its FOIA regulations, which also apply to FEMA. *See* 81 FR 83625 (Nov. 22, 2016). FEMA finds that this cross-reference to subpart B is outdated, not necessary, and potentially confusing. Accordingly, FEMA proposes to remove it from part 1.

Paragraph (c) of current section 1.1 states that 44 CFR part 1 ''contains policies and procedures for implementation of the Regulatory Flexibility Act which took effect January 1, 1981.'' In this rulemaking, FEMA is proposing to remove all provisions from part 1 that address the requirements of the Regulatory Flexibility Act, as these provisions are not required to be in regulation. The requirements of the Regulatory Flexibility Act pertain to an agency's responsibilities in performing a particular kind of analysis of its rulemakings, and do not include any requirements on the public. Therefore, FEMA proposes to remove paragraph (c) from current section 1.1.

Paragraphs (d) and (e) of current section 1.1 refer to a rescinded FEMA manual that described the agency's internal rulemaking procedures.[5] As the manual has since been rescinded, and there is no requirement to include references to such internal guidance in regulations, FEMA proposes to remove reference to such guidance in 44 CFR part 1.

Section 1.2 Definitions

Section 1.2 includes the definition of ''rule or regulation,'' which is the same definition that appears in the Administrative Procedure Act at 5 U.S.C. 551(4). Rather than restating the definition, FEMA proposes to simply provide the reference to the APA definition, for the sake of simplicity and to avoid the possible impression that FEMA's definition differs from the Administrative Procedure Act definition.

FEMA proposes to remove the definition of ''major rule.'' This is a term found in rescinded Executive Order 12291, and the Congressional Review of Agency Rulemaking Act (CRA), and the definition need not be parroted in regulation.[6] FEMA is therefore proposing to remove this definition from 44 CFR part 1.

FEMA does not propose any changes to the definitions of ''rulemaking,'' ''Administrator,'' or ''FEMA.''

Section 1.3 Scope

FEMA proposes to remove paragraph (a) of this section, because it is redundant of proposed section 1.1, addressing the scope of part 1.

FEMA proposes to remove paragraph (b) of this section, because it is not required to be in regulation. Paragraph (b) states that any delegation by the Administrator of authority to issue rules may not be further redelegated, unless expressly provided for in the delegation. Delegations are an internal agency matter, and are within the discretion of the FEMA Administrator whether to allow one of his functions to be delegable. FEMA currently has an internal delegation addressing rulemaking, FDA 0106–5 (included in the docket for this rulemaking at *www.regulations.gov*) which provides for FEMA rulemakings to be issued by either the Administrator or the Deputy Administrator of FEMA. It also provides for certain ''routine and frequent'' rulemakings regarding the National Flood Insurance Program to be issued by the Associate Administrator for Federal Insurance and Mitigation, or, if vacant, the Deputy Associate Administrator for Federal Insurance and Mitigation.

FEMA proposes to move paragraph (c) of current section 1.3 to proposed section 1.1. This paragraph explains that 44 CFR part 1 does not address formal rulemaking procedures under the Administrative Procedure Act. If the need or opportunity arises to engage in a formal rulemaking, FEMA may issue relevant regulations or guidance at that time as necessary and appropriate.

Section 1.4 Policy and Procedures

FEMA proposes to remove paragraph 1.4(a), as it is based on a rescinded Executive Order, Executive Order 12291. It is not necessary to implement the provisions of such executive orders in regulation.

Current paragraph 1.4(b) states that it is FEMA's policy to provide for public participation in rulemaking regarding its programs and functions, including for matters that relate to public property, loans, grants, benefits, or contracts. FEMA declared this policy notwithstanding that the Administrative Procedure Act's notice-and-comment rulemaking requirements do not apply to such programs and functions. See 5 U.S.C. 553(a)(2). In 1971, the Administrative Conference of the United States (ACUS) issued a recommendation which recommended that all Federal agencies waive the Administrative Procedure Act exemption, finding that the public interest in participating in these matters outweighed the added process required by notice and comment rulemaking.[7] When FEMA issued part 1 in 1981, it adopted this recommendation.

One of FEMA's main functions is to administer grant programs for emergency preparedness, response, recovery, and mitigation. The majority of these grant programs are annual grant programs, meaning Congress on an annual basis (1) appropriates a certain amount of money for the program, and (2) potentially revises requirements associated with the program. FEMA annually evaluates available resources and policy priorities, and issues notices of funding opportunity, *i.e.,* calls for grant applications which specify the eligibility requirements and conditions for the grant. If in a given year Congress has not appropriated funds for a given annual grant program, FEMA will not issue a notice of funding opportunity or make any awards for that program.

Because of the uncertainties associated with these programs and the

[3] 58 FR 51735 (Oct. 3, 1993).

[4] Formal rulemaking is rulemaking made on the record after a formal hearing. *See* 5 U.S.C. 556, 557.

[5] FEMA Manual 1140.1, The Formulation, Drafting, Clearance, and Publication of **Federal Register** Documents,'' was rescinded by FEMA Manual 078–1–2, ''Rulemaking and **Federal Register** Notice Development, Drafting, and Approval Procedures,'' on 8/28/12.

[6] 5 U.S.C. 801–808. See the description of the CRA in the Regulatory Analyses section of this preamble.

[7] ACUS Recommendation 69–8, adopted Oct. 21–22, 1969, available at: *https://www.acus.gov/sites/default/files/documents/69-8.pdf.*

time and resource constraints associated with the rulemaking process, it would be extremely challenging to promulgate or revise regulations each year for these annual grant programs, and therefore FEMA's practice for years has been to post a notice of funding opportunity on its Web site at *https://www.fema.gov/grants* when grant funds become available. These notices provide detailed information on grant eligibility and conditions, consistent with OMB requirements.[8] FEMA finds that regulations are not necessary for these annual grant programs, because the requirements for the grant are included in legislation and the notices of funding opportunity which are available to the public on FEMA's Web site and *www.grants.gov*.[9]

FEMA notes that in the 1971 ACUS recommendation, ACUS cited the inadequate practice of some agencies at that time of notifying applicants of available grant funds and actions taken on applications. However, it is now standard practice for Federal agencies to use the internet to disseminate information to the public. FEMA's use of its Web site and *www.grants.gov* for its annual grant programs allows any member of the public easy access to grant application information, and inadequate notice is no longer an issue.

Because it would be unduly burdensome and, in some cases, impossible to promulgate annual grant program requirements in regulation, because the APA does not require such (or any) grant program requirements to be in regulation, and because FEMA requires flexibility to adapt quickly to legal and policy mandates, FEMA considered eliminating current paragraph 1.4(b) entirely. At this time, however, FEMA prefers to retain a statement in support of public participation in rulemaking, because although FEMA sees little reason to retain current paragraph 1.4(b) as drafted, FEMA continues to believe that public participation is frequently beneficial to the rulemaking process, particularly for its non-annual disaster grant programs. Accordingly, FEMA proposes to modify its part 1 with respect to the grants exception. Specifically, under this proposed rule (proposed section 1.3), FEMA would retain its general policy in favor of public participation, but would retain discretion to depart from this policy in its discretion and as circumstances warrant, such as with respect to annual grant programs. FEMA also proposes to include a provision stating that its general policy of providing for public participation in rulemaking is not intended to create a right or benefit, substantive or procedural, enforceable against the United States.

FEMA proposes to remove paragraph (c) from current section 1.4, as it merely echoes the requirement of the Administrative Procedure Act at 5 U.S.C. 553 to publish notices of proposed rulemaking in the **Federal Register** and to give the public an opportunity to participate in the rulemaking through submission of written data, views, and arguments, with or without opportunity for oral presentation.

FEMA proposes to remove paragraph (d) from current section 1.4, which describes FEMA's policy of giving the public, including small entities and consumer groups, an early and meaningful opportunity to participate in the development of rules such as through advance notices of proposed rulemakings, holding open conferences, and convening public forums or panels. Such a policy need not be in regulation.

FEMA proposes to remove paragraph (e) from current section 1.4, which contains FEMA's policy to hold a 60-day public comment period for notices of proposed rulemaking. This policy is consistent with the time period recommended by Executive Order 12866. Paragraph (e) also states that the comment period will include any period of review required by OMB in accordance with the Paperwork Reduction Act of 1980. Such a policy need not be in regulation.

Paragraph (f) of current section 1.4 addresses Administrative Procedure Act provisions that allow an agency to bypass notice and comment. FEMA proposes to remove paragraph (f) from current section 1.4.

Paragraph (g) of current section 1.4 addresses the delayed effective date provision of the Administrative Procedure Act. Under this provision, a substantive rule generally becomes effective no earlier than 30 calendar days after the date of publication in the **Federal Register**, unless the agency provides an explanation in the preamble to the rule that it has good cause to make the rule effective immediately upon the date of publication. FEMA proposes to remove this provision from current section 1.4.

Paragraph (h) of current section 1.4 addresses publication of rules in emergency situations. It states that part 1 does not apply to such situations, and any such regulation will be reported to OMB. It states that as soon as is practicable, FEMA will publish in the **Federal Register** a statement of the reasons why it is impracticable for the agency to follow the procedures of Executive Order 12866, and the agency shall prepare and transmit, as needed, and as soon as practicable, a regulatory impact analysis for the rule. FEMA proposes to remove this paragraph from section 1.4, because it predates the termination of FEMA's status as an independent agency, and addresses a matter of internal U.S. government coordination.

Section 1.5 Rules Docket

Section 1.5 addresses the public rules docket. FEMA proposes to renumber this section as section 1.4. FEMA proposes to slightly revise this section, to clarify that the public rulemaking docket is available for public inspection after a rule document has been published in the **Federal Register**. This is the point when a public rulemaking docket is established. Prior to that point, any documents associated with the rulemaking are part of the internal development process, and are not included in the public docket. FEMA also proposes to clarify that the public docket is available in hard copy until the rule project is closed. Once a rule project is closed (either because the rule has been finalized or withdrawn), FEMA archives the docket at the National Archives and Records Administration, due to limited physical space at FEMA offices. An electronic copy of the docket would still be available on *www.regulations.gov,* however, with the exception of any copyrighted material that might be associated with the rule project.

FEMA also proposes to add a requirement that any member of the public wishing to physically inspect the public docket do so by prearrangement with FEMA. FEMA has consolidated its office space and no longer maintains a separate reading room for rule dockets. Therefore, it is necessary for FEMA to reserve a space ahead of time for a member of the public to inspect the public docket. FEMA proposes to remove the requirement that a member of the public must pay a fee to obtain a copy of the public docket.

FEMA proposes to move the provision addressing the submission of public comments to a separate section, as it is not directly related to inspection of the public docket (although public comments are included in the docket itself). The new section addressing submission of public comments would

[8] *See* Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at 2 CFR 200.203.

[9] FEMA's disaster grant programs are awarded based on event-specific Presidential declarations rather than an annual appropriation from Congress; FEMA maintains fulsome regulations for these programs.

be numbered section 1.5, and addresses submission of comments electronically to *www.regulations.gov* as well as submission via mail or courier to FEMA.

Finally, FEMA proposes to add a section to address the public dockets for flood hazard elevation rules. The physical repository addresses for supporting material for those rules vary depend on the locality that is the subject of the rule. FEMA includes the address in the preamble to each flood hazard elevation rule.

Section 1.6 Ex Parte Communications

Section 1.6 addresses ex parte communications during the rulemaking process. FEMA proposes to revise this section to cover written as well as oral communications, and to cover any such communications from outside the Federal Executive branch, rather than outside FEMA. There are various communications necessary outside FEMA but within the Federal Executive branch during the rulemaking process, such as with DHS, OMB, or other Federal agencies, as part of internal government review, to ensure consistency in Federal government policy, and to consult with other agencies with expertise in the subject of the rule or that may be affected by the rule. These communications are considered ''internal'' as they are contained within the Federal Executive branch. The disclosure requirements of this section are not intended to apply to such internal communications.

FEMA proposes to revise this section to cover communications from the time a notice of proposed rulemaking is published until FEMA issues a final regulatory action (such as a withdrawal of the notice of proposed rulemaking or a final rule). Under the current regulation, communication is only restricted during the open public comment period, which tends to defeat the purpose of transparency in development of the regulatory action, since once the comment period closes, ex parte communications can occur while the next regulatory action is being developed. To ensure transparency for the entire development of the rule from publication of the notice of proposed rulemaking until issuance of a final action, FEMA proposes to revise the applicability of its ex parte regulation to also cover the time between the close of a proposed rule comment period and the issuance of a final action.

FEMA proposes to remove the introductory language of this section, which states that the section applies to rulemaking proceedings governed by the procedural requirements of 5 U.S.C. 553 (*i.e.,* informal rulemaking). The purpose section of part 1 already limits the scope of part 1 to informal rulemaking so this introductory language to section 1.6 is unnecessary.

FEMA proposes to add a provision noting that the ex parte restrictions do not apply to Tribal consultations. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,[10] and Presidential Memorandum of November 9, 2009, Tribal Consultation,[11] require Federal agencies to consult with Tribes on actions that have Tribal implications. In order to facilitate and support these communications, FEMA encourages Tribal consultation early in the rule development process and does not impose ex parte restrictions on such consultations.

Section 1.7 Regulations Agenda

Section 1.7 contains outdated requirements that were part of the now-rescinded Executive Order 12291 regarding the government-wide regulations agenda. Current Executive Order 12866 also contains requirements that agencies must follow for the regulations agenda, as does the Regulatory Flexibility Act. FEMA proposes to remove these requirements, as OMB publishes the agenda on its Web site, which any member of the public may view at *www.reginfo.gov,* and because of Executive Order 12291's rescission.

Section 1.8 Regulations Review

Section 1.8 describes FEMA's intent to publish in the **Federal Register**, and keep updated, a plan for periodic review of existing rules at least within 10 years from the date of publication of a final rule. FEMA proposes to remove this section from part 1, as the process for review of existing rules has changed. President Trump recently issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' which outlines specific requirements related to retrospective review.[12] And past executive orders, such as Executive Order 13563, ''Improving Regulation and Regulatory Review,'' include certain retrospective review requirements as well.[13] FEMA has actively participated in such reviews, and will continue to do so.

Section 1.9 Regulatory Impact Analysis

Section 1.9 lists the regulatory impact analysis requirements that were part of the now-rescinded Executive Order 12291. These requirements have been replaced by a series of executive orders and OMB Circular A–4, ''Regulatory Analysis.'' A copy of the circular is included in the docket for this rulemaking. FEMA must follow these guidelines when preparing a regulatory impact analysis for its rules. As these guidelines apply to the agency rather than the public, it is not necessary to include them in the CFR. Therefore, FEMA proposes to remove section 1.9 from its regulations rather than updating it with the new guidelines.

Section 1.10 Initiation of Rulemaking

This section addresses the process for initiating a rulemaking at FEMA, both internally by the Administrator of FEMA and externally via a petition for rulemaking. FEMA's process for initiating a rule is an internal agency matter, and the ultimate authority for initiating a rule resides with the Administrator. Thus, FEMA proposes to remove reference to the internal process for initiating a rule from its regulations. Initiation of a rule via a petition for rulemaking is addressed in a separate section (current section 1.18, which is renumbered as section 1.8 in this proposed rule). Therefore, as petitions for rulemaking are fully addressed in a separate section, FEMA proposes to remove section 1.10 in its entirety from the regulations.

Section 1.11 Advance Notice of Proposed Rulemaking

Section 1.11 lists the requirements for the contents of an advance notice of proposed rulemaking (ANPRM), a regulatory action that typically takes place to gather information for a possible future notice of proposed rulemaking. These ANPRM requirements are part of FEMA's internal procedures and controls for its regulatory actions; FEMA proposes to remove them from the CFR.

Section 1.12 Notice of Proposed Rulemaking

Section 1.12 lists the requirements for the contents of a notice of proposed rulemaking, a regulatory action that notifies the public of various information, including but not limited to, the substance or terms of the proposed rule or a description of the subject matter and issues involved and a reference to the legal authority under which the proposed rule is issued. These elements are already required by

[10] 65 FR 67249 (Nov. 9, 2000).

[11] *https://obamawhitehouse.archives.gov/the-press-office/memorandum-tribal-consultation-signed-president; see also* FEMA's Tribal Consultation Policy, FP101–002.01, included in the docket for this rulemaking on *www.regulations.gov* and on FEMA's Web site at *https://www.fema.gov/media-library/assets/documents/98120.*

[12] 82 FR 12285 (Mar. 1, 2017).

[13] 76 FR 3821 (Jan. 21, 2011).

statute; FEMA, therefore, proposes to remove them from the CFR.

Section 1.12 also states that it is desirable that the proposed rule contain a target deadline for issuance of the regulation, and that to the extent feasible, this deadline be met. FEMA proposes to remove this provision because such a target, announced in a proposed rule, would too frequently be unduly speculative. For instance, FEMA does not presume that each proposed rule will result in a final rule.

The final provision of section 1.12 states that if the proposed rule is one which contains a requirement for a collection of information, a copy of the rule will be furnished to OMB in accordance with the Paperwork Reduction Act. Under internal Federal government procedure, FEMA is required to submit all information collections, whether included with a rule or not, to OMB, via DHS. A regulation is not necessary for this function, and therefore FEMA proposes to remove it from the CFR.

Section 1.13 Participation by Interested Persons

Section 1.13 states that any interested person may participate in rulemaking proceedings by submitting written data, views, or arguments within the comment time stated in the notice. This is a requirement of the Administrative Procedure Act and FEMA includes it in all of its rulemaking notices for proposed rules and advance notices of proposed rulemakings. As it is not necessary to include in regulation, FEMA proposes to remove it from the CFR.

Section 1.13 includes a provision stating that the Administrator may permit the filing of comments in response to original comments. FEMA proposes to remove this provision because it is unnecessary to include in the CFR.

Section 1.13 also states that the Administrator may provide for oral presentation of views in additional proceedings; this is also addressed in section 1.14. FEMA proposes to remove these provisions from the CFR. FEMA's policy for providing for public hearings is addressed in FEMA's notices of proposed rulemaking.

The last provision of section 1.13 states that FEMA will send copies of regulatory flexibility analyses to the Chief Counsel for Advocacy of the Small Business Administration. As this provision is regarding internal agency procedure and does not affect the public, FEMA proposes to remove it from the regulation.

Section 1.14 Additional Rulemaking Proceedings

Section 1.14 states that the Administrator may invite interested persons to present oral arguments, appear at informal hearings, or participate in any other procedure affording opportunity for oral presentation of views. FEMA's current policy is to include in each notice of proposed rulemaking, as appropriate, a statement noting that any member of the public may submit a request for a public meeting. If a hearing is held, FEMA will publish notice of such in the **Federal Register**. This provision is not necessary to include in the CFR. Therefore, FEMA proposes to remove it.

FEMA proposes to retain the provision indicating that FEMA will keep a transcript or minutes of any hearing, but proposes to move it to the section on hearings (currently section 1.15; renumbered as section 1.7 in the proposed rule). Note that FEMA considers any oral presentation a hearing; any oral presentation would fall under the provision addressing hearings (discussed below).

Section 1.15 Hearings

Section 1.15 addresses the nature of public hearings should FEMA hold one for a particular rulemaking. Any such public hearing is nonadversarial and for fact-finding only. FEMA proposes to remove the provision stating that formal rulemaking hearing procedures do not apply, since section 1.1 already limits the scope of part 1 to informal rulemaking.

Section 1.16 Adoption of a Final Rule

Section 1.16 addresses FEMA's procedure for issuing a final rule. Paragraph (a) states that FEMA must address any relevant significant issues set forth in comments received on the proposed rule. Paragraph (a) also requires the final rule to include a clear concise statement of the basis and purpose of the rule. These are Administrative Procedure Act requirements placed on agencies rather than the public and therefore FEMA proposes to remove these from the regulation.

Paragraph (b) lists other information that FEMA may include in a final rule preamble. The information is similar to information covered by Administrative Committee of the **Federal Register** regulations at 1 CFR 18.12. There is no need to reiterate this list in FEMA's regulations. Therefore FEMA proposes to remove paragraph (b) from part 1.

Paragraph (c) states that a statement shall be published at the time of publication of a final rule describing how the public may obtain copies of the final regulatory flexibility analysis. FEMA proposes to remove this provision because it is not necessary; FEMA automatically posts such analyses on *www.regulations.gov* for public viewing.

Paragraph (d)(1) states that before approving any final major rule, FEMA will make a determination that the regulation is clearly within the authority delegated by law and consistent with congressional intent and include in the **Federal Register** at the time of promulgation a memorandum of law supporting that determination. FEMA proposes to remove this provision because it no longer reflects FEMA practice. FEMA includes the legal authority for the rule in the rulemaking document, and this is also a requirement of the **Federal Register** (each rulemaking must include an ''authority citation''). Although FEMA internally makes a legal determination that the regulation is within FEMA's legal authorities, FEMA does not include in the **Federal Register** a memorandum of law supporting that determination.

Paragraph (d)(2) states that FEMA must make a determination that the factual conclusions upon which the rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular. FEMA proposes to remove this provision.

Section 1.17 Petitions for Reconsideration

Section 1.17 states that FEMA will not consider petitions for reconsideration of a final rule, and that such petitions will be treated as petitions for rulemaking. This remains FEMA's policy, and FEMA proposes no revisions to this section, other than to revise the reference to section 1.18, which would become section 1.9 if this proposed rule is finalized.

Section 1.18 Petitions for Rulemaking

Section 1.18 addresses petitions for rulemaking. It states that any interested person may petition the Administrator for the issuance, amendment, or repeal of a rule, and for purposes of this section, the term ''person'' includes a ''Federal, State, or local government or government agency.'' FEMA proposes to revise the definition of ''person'' to include ''any member of the public and any entity outside the Federal Executive branch.'' FEMA considers any ''petitions'' from entities of the Federal

Executive branch as internal to the government and not subject to the same requirements as petitions from the public. There is communication amongst Federal Executive branch agencies on a regular basis and any need for a rule would be raised through those channels. This is not a change from the current intent of this section, but FEMA is proposing this new language for the sake of clarity.

This section states that petitions should be submitted to the ''Rules Docket Clerk.'' As FEMA no longer has a ''Rules Docket Clerk,'' FEMA proposes to change this to the ''Regulatory Affairs Division,'' which is the division responsible for processing any petitions to FEMA for rulemaking. FEMA also proposes to require that petitions for rulemaking be labeled as such, to avoid situations where simple correspondence is confused with a petition.

Authority Citation

FEMA proposes to revise the authority citation for part 1 by removing the reference to rescinded Executive Order 12291, as well as the references to the Reorganization Plan No. 3 of 1978, Executive Order 12127, and Executive Order 12148. The Reorganization Plan and Executive Orders 12127 and 12148 established FEMA as an agency in 1979 and established its functions. FEMA proposes to replace these cites with a citation to the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* which provided organic authority for FEMA and made it a component of the Department of Homeland Security, and Department of Homeland Security Delegation 9001.1, which delegated specific functions back to FEMA.

FEMA also proposes to remove the citation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because references to that Act would no longer be included in part 1 if the proposed rule is finalized.

FEMA proposes to retain the citations to the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 551 and 553) as these are the main authorities for this part.

Change Chart

The following chart lists the current section and how it is affected by the proposed rule:

Current section	Proposed rule
1.1 Purpose	
1.1(a)	1.1(a).
1.1(b)	Removed.
1.1(c)	Removed.
1.1(d)	Removed.
1.1(e)	Removed.
1.2 Definitions	
1.2(a)	1.2(a).
1.2(b)	1.2(b).
1.2(c)	1.2(c).
1.2(d)	1.2(d).
1.2(e)	Removed.
1.3 Scope	
1.3(a)	1.1(a).
1.3(b)	Removed.
1.3(c)	1.1(b).
1.4 Policy and Procedures.	Removed, except 1.4(b) moved to 1.3.
1.5 Rules docket.	
1.5(a)	1.4(a) & 1.5.
1.5(b)	1.4(b).
1.6 Ex parte communications	
1.6 Introductory language.	Removed.
1.6(a)	1.6(a).
1.5(b)	1.6(b).
1.7 Regulations agendas.	Removed.
1.8 Regulations review	Removed.
1.9 Regulatory impact analyses.	Removed.
1.10 Initiation of rulemaking	
1.10	1.8/partially removed.
1.11 Advance notice of proposed rulemaking.	Removed.
1.12 Notice of proposed rulemaking.	Removed.
1.13 Participation by interested persons.	Removed.
1.14 Additional rulemaking proceedings.	1.7(c)/partially removed.
1.15 Hearings.	
1.15 (a)	1.7(a)/partially removed.
1.15(b)	1.7(b).
1.16 Adoption of a final rule.	Removed.
1.17 Petitions for reconsideration.	1.9.
1.18 Petitions for rulemaking.	1.8.

IV. Regulatory Analyses

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017).

This proposed rule would revise FEMA regulations pertaining to rulemaking by removing sections that are outdated or do not affect the public and update provisions that affect the public's participation in the rulemaking process. FEMA does not believe this rule imposes additional direct costs on the public or government.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), as amended, 5 U.S.C. 601–612, agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When the Administrative Procedure Act requires an agency to publish a notice of proposed rulemaking under 5 U.S.C. 553, the RFA requires a regulatory flexibility analysis for both the proposed rule and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The RFA also provides that in lieu of a regulatory flexibility analysis, the agency may certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities'' along with a statement providing the factual basis for such certification. FEMA has voluntarily published a notice of proposed rulemaking in this case, notwithstanding that this rule is a rule of agency organization, procedure, or practice exempt from notice-and-comment rulemaking requirements. *See* 5 U.S.C. 553(b)(A).

This proposed rule would revise FEMA regulations pertaining to rulemaking by removing sections that are outdated or do not affect the public and update provisions that affect the public's participation in the rulemaking process. This rule does not impose direct costs on small entities. Accordingly, and although FEMA is not required to make such certification, pursuant to section 605(b) of the RFA, 5 U.S.C. 605(b), the Administrator of FEMA certifies that this rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 658, 1501–1504, 1531–1536, 1571, pertains to any notice of proposed rulemaking which implements any rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If the rulemaking includes a Federal mandate, the Act requires an agency to prepare an assessment of the anticipated costs and benefits of the Federal mandate. The Act also pertains to any regulatory requirements that might significantly or uniquely affect small governments. Before establishing any such requirements, an agency must develop a plan allowing for input from the affected governments regarding the requirements.

FEMA has determined that this rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, nor by the private sector, of $100,000,000 or more in any one year as a result of a Federal mandate, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA), as amended, 44 U.S.C. 3501–3520, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency obtains approval from OMB for the collection and the collection displays a valid OMB control number. *See* 44 U.S.C. 3506, 3507. FEMA has determined that this rulemaking does not contain any collections of information as defined by that Act. PRA regulations exempt general solicitations of comments from the public such as rulemakings. *See* 5 CFR 1320.3(h)(4).

Privacy Act/E-Government Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, an agency must determine whether implementation of a proposed regulation will result in a system of records. A ''record'' is any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his/her education, financial transactions, medical history, and criminal or employment history and that contains his/her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. *See* 5 U.S.C. 552a(a)(4). A ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. An agency cannot disclose any record which is contained in a system of records except by following specific procedures.

The E-Government Act of 2002, 44 U.S.C. 3501 note, also requires specific procedures when an agency takes action to develop or procure information technology that collects, maintains, or disseminates information that is in an identifiable form. This Act also applies when an agency initiates a new collection of information that will be collected, maintained, or disseminated using information technology if it includes any information in an identifiable form permitting the physical or online contacting of a specific individual.

This proposed rule does not create a new, nor impact a current, system of record. Therefore, this proposed rule does not require coverage under an existing or new Privacy Impact Assessment or System of Records Notice. Any member of the public or any non-Federal entity may submit comments on a rulemaking; all comments are posted on *www.regulations.gov,* and that Web site, as well as each FEMA rulemaking document requesting comments, includes a Privacy Notice informing the commenter that any comments will be posted for public viewing.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 65 FR 67249, November 9, 2000, applies to agency regulations that have Tribal implications, that is, regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Under this Executive Order, to the extent practicable and permitted by law, no agency shall promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribal governments, and that is not required by statute, unless funds necessary to pay the direct costs incurred by the Indian Tribal government or the Tribe in complying with the regulation are provided by the Federal Government, or the agency consults with Tribal officials.

This rule does not have Tribal implications. Any member of the public and any non-Federal entity, including Tribes and Tribal members, may participate in Federal rulemaking as outlined in this proposed rule, and it is FEMA's policy that ex parte restrictions in rulemaking do not apply to Tribal consultations.

Executive Order 13132, Federalism

Executive Order 13132, ''Federalism,'' 64 FR 43255, August 10, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

FEMA has reviewed this proposed rule under Executive Order 13132 and has determined that this rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications as defined by the Executive Order. It addresses agency procedures for rulemaking that affect the public; such rulemaking is a Federal process and does not affect State rulemaking processes.

Congressional Review of Agency Rulemaking

Under the Congressional Review of Agency Rulemaking Act (CRA), 5 U.S.C. 801–808, before a rule can take effect, the Federal agency promulgating the rule must submit to Congress and to the Government Accountability Office (GAO) a copy of the rule; a concise general statement relating to the rule, including whether it is a major rule; the proposed effective date of the rule; a copy of any cost-benefit analysis; descriptions of the agency's actions under the Regulatory Flexibility Act and the Unfunded Mandates Reform Act;

and any other information or statements required by relevant executive orders.

FEMA will send this rule to the Congress and to GAO pursuant to the CRA if the rule is finalized. The rule is not a ''major rule'' within the meaning of the CRA. It will not have an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 44 CFR Part 1

Administrative practice and procedure.

■ For the reasons discussed in the preamble, the Federal Emergency Management Agency proposes to revise 44 CFR part 1 as follows:

PART 1—RULEMAKING, POLICY AND PROCEDURES

Sec.

1.1 Purpose and scope.
1.2 Definitions.
1.3 Regulatory policy.
1.4 Public rulemaking docket.
1.5 Public comments.
1.6 Ex parte communications.
1.7 Hearings.
1.8 Petitions for rulemaking.
1.9 Petitions for reconsideration.

Authority: 5 U.S.C. 551, 553; 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1.

§ 1.1 Purpose and scope.

(a) This part contains FEMA's procedures for informal rulemaking under the Administrative Procedure Act (5 U.S.C. 553) that affect the public.

(b) This part does not apply to rules issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557).

§ 1.2 Definitions.

(a) *Rule* or *regulation* have the same meaning as those terms are defined in the Administrative Procedure Act (5 U.S.C. 551(4)).

(b) *Rulemaking* means the FEMA process for considering and formulating the issuance, amendment, or repeal of a rule.

(c) *Administrator* means the Administrator, FEMA, or an official to whom the Administrator has expressly delegated authority to issue rules.

(d) *FEMA* means Federal Emergency Management Agency.

§ 1.3 Regulatory policy.

(a) It is the general policy of FEMA to provide for public participation in rulemaking regarding its programs and functions, including matters that relate to public property, loans, grants, or benefits, or contracts, even though these matters are not subject to a requirement for notice and public comment rulemaking by law. This general policy is not intended to and does not create a right or benefit, substantive or procedural, enforceable against the United States or its agencies or officers.

(b) FEMA may depart from this general policy in its absolute discretion, including for its annual grant programs and in other cases as circumstances warrant.

§ 1.4 Public rulemaking docket.

(a) FEMA maintains a public docket for each rulemaking after it is published in the **Federal Register** and until the rulemaking is closed and archived at the National Archives and Records Administration. The public docket includes every document published in the **Federal Register** in conjunction with a rulemaking. It also includes regulatory assessments and analyses, written comments from the public addressed to the merits of a proposed rule, comments from the public received in response to notices, or to withdrawals or terminations of a proposed rulemaking, requests for a public meeting, requests for extension of time, petitions for rulemaking, grants or denials of petitions or requests, and transcripts or minutes of informal hearings. The public rulemaking docket is maintained by the Regulatory Affairs Division, Office of Chief Counsel.

(b) After FEMA establishes a public rulemaking docket, any person may examine docketed material during established business hours by prearrangement with the Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C St. SW., Washington, DC 20472, and may obtain a copy of any docketed material (except for copyrighted material). FEMA also maintains a copy of each public docket electronically, with the exception of copyrighted material, on *www.regulations.gov.* To access the docket on *www.regulations.gov,* search for the docket ID associated with the rulemaking.

(c) The docket for flood hazard elevation rules issued by the National Flood Insurance Program are partially maintained at the locality that is the subject of the rule. FEMA includes in the preamble of each flood hazard elevation rule the repository address for supporting material.

§ 1.5 Public comments.

A member of the public may submit comments via mail or courier to the Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 500 C St. SW., Washington, DC 20472, or may submit comments electronically to the rulemaking docket at *www.regulations.gov* under the applicable docket ID.

§ 1.6 Ex parte communications.

(a) All oral or written communications from outside the Federal Executive branch of significant information and argument respecting the merits of a rulemaking document, received after publication of a notice of proposed rulemaking, by FEMA or its offices and divisions or their personnel participating in the decision, must be summarized in writing and placed promptly in the public docket. This applies until the agency publishes a final regulatory action such as a withdrawal of the notice of proposed rulemaking or a final rule.

(b) FEMA may conclude that restrictions on ex parte communications are necessitated at other times by considerations of fairness or for other reasons.

(c) This section does not apply to Tribal consultations.

§ 1.7 Hearings.

(a) When FEMA affords an opportunity for oral presentation, the hearing is an informal, nonadversarial, fact-finding proceeding. Any rulemaking issued in a proceeding under this part in which a hearing is held need not be based exclusively on the record of such hearing.

(b) When such a hearing is provided, the Administrator will designate a representative to conduct the hearing.

(c) The transcript or minutes of the hearing will be kept and filed in the public rulemaking docket.

§ 1.8 Petitions for rulemaking.

(a) Any interested person may petition the Administrator for the issuance, amendment, or repeal of a rule. For purposes of this section, the term *person* includes any member of the public and any entity outside the Federal Executive branch of government. Each petitioner must:

(1) Submit the petition to the Regulatory Affairs Division, Office of Chief Counsel, FEMA, 8NE, 500 C Street SW., Washington, DC 20472;

(2) Label the petition with the following: ''Petition for Rulemaking'' or ''Rulemaking Petition'';

(3) Set forth the substance of the rule or amendment proposed or specify the rule sought to be repealed or amended;

(4) Explain the interest of the petitioner in support of the action sought; and

(5) Set forth all data and arguments available to the petitioner in support of the action sought.

(b) No public procedures will be held directly on the petition before its disposition. If the Administrator finds that the petition contains adequate justification, a rulemaking proceeding will be initiated or a final rule will be issued as appropriate. If the Administrator finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial.

The Administrator may consider new evidence at any time; however, FEMA will not consider repetitious petitions for rulemaking.

§ 1.9 Petitions for reconsideration.

Petitions for reconsideration of a final rule will not be considered. Such petitions, if filed, will be treated as petitions for rulemaking in accordance with § 1.8 of this part.

Dated: May 30, 2017.

Robert Fenton,

Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–11559 Filed 6–6–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapters II, III, IV, V, and VI

RIN 0648–XF326

Plan for Periodic Review of Regulations

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

ACTION: Notice; request for comments.

SUMMARY: NMFS announces the existing rules that it is reviewing, as required, under section 610 of the Regulatory Flexibility Act, which had, or will have a significant impact on a substantial number of small entities, such as small businesses, small organizations, and small governmental jurisdictions. The intended effect of this document is to inform the public of the rules under review, to outline NMFS' review process, and to provide an opportunity to comment. In addition, information compiled through this routine action will be relevant to the regulatory reviews required under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.''

DATES: Written comments must be received by July 7, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0054, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0054,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelly Denit, National Marine Fisheries Service, NOAA, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910 (mark outside of envelope ''Comments on 610 Review'').

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Tara Scott, (301) 427–8579 or Heather Sagar, (301) 427–8019.

SUPPLEMENTARY INFORMATION:

Background

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires that Federal agencies including NMFS take into account how their regulations affect ''small entities,'' including small businesses, small Governmental jurisdictions, and small organizations. Under the RFA, we must either prepare a Regulatory Flexibility Analysis or certify that the regulation, if put in place, will not have a significant economic impact on a substantial number of small entities for any regulation proposed after January 1, 1981. Section 602 of the RFA requires that NMFS issue an Agenda of Regulations identifying rules under development that are likely to have a significant economic impact on a substantial number of small entities.

Section 610 of the RFA requires Federal agencies to review existing regulations. It requires that NMFS publish a plan in the **Federal Register** explaining how it will review its existing regulations which have or will have a significant economic impact on a substantial number of small entities. Regulations that became effective after January 1, 1981, must be reviewed within 10 years of the publication date of the final rule. Section 610(c) requires that we annually publish a list of final rules we will review during the succeeding 12 months in the **Federal Register**. The list must describe, explain the need for, and provide the legal basis for the rules being reviewed, as well as invite public comment on the rule.

In addition, information compiled through this routine action under Section 610 of the RFA will be relevant to the regulatory reviews required under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.''

Criteria for Review of Existing Regulations

The purpose of the review is to determine whether existing rules should be left unchanged, or whether they should be revised or rescinded to minimize significant economic impacts on a substantial number of small entities, consistent with the objectives of other applicable statutes. In deciding whether change is necessary, the RFA establishes five factors that NMFS must consider:

(1) Whether the rule is still needed;

(2) What type of complaints or comments were received concerning the rule from the public;

(3) The complexity of the rule;

(4) How much the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) How long it has been since the rule has been evaluated or how much the technology, economic conditions, or

other factors have changed in the area affected by the rule.

Plan for Periodic Review of Rules

Below is the list of rules and their summaries issued in 2010 that we will review by December 31, 2017, consistent with RFA Section 610. This list includes rules issues in 2010 for which initial and final regulatory flexibility analyses were completed.

1. Pacific Halibut Fisheries; Limited Access for Guided Sport Charter. RIN 0648–AW92 (75 FR 553; January 5, 2010). NMFS issued regulations creating a limited access system for charter vessels in the guided sport fishery for Pacific halibut in waters of International Pacific Halibut Commission Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). This limited access system limited the number of charter vessels that may participate in the guided sport fishery for halibut in these areas. NMFS issued a charter halibut permit to a licensed charter fishing business owner based on his or her past participation in the charter halibut fishery and to a Community Quota Entity representing specific rural communities. All charter halibut permit holders were subject to limits on the number of permits they may hold and on the number of charter vessel anglers who may catch and retain halibut on permitted charter vessels. This action was necessary to achieve the approved halibut fishery management goals of the North Pacific Fishery Management Council. The intended effect was to curtail growth of fishing capacity in the guided sport fishery for halibut. This action was conducted by NMFS under authority of the Northern Pacific Halibut Act of 1982.

2. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Initial Implementation of the Western and Central Pacific Fisheries Convention. RIN 0648–AV63 (75 FR 3335; January 21, 2010). NMFS issued regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act, which authorized the Secretary of Commerce to promulgate regulations needed to carry out the obligations of the U.S. under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, including implementing the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The regulations included requirements related to permitting, vessel monitoring systems, vessel observers, vessel markings, reporting and recordkeeping, at-sea transshipment, and boarding and inspection on the high seas, among others. NMFS has determined that this action was necessary for the United States to satisfy its international obligations under the Convention, to which it is a Contracting Party. It has the effect of requiring that all relevant U.S. fishing vessels were operated in conformance with the provisions of the Convention.

3. Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations. RIN 0648–AW51 (75 FR 7383; February 19, 2010). NMFS issued this final rule to amend the regulations implementing the Harbor Porpoise Take Reduction Plan to address the increased incidental mortality and serious injury of the Gulf of Maine/Bay of Fundy stock of harbor porpoises (*Phocoena phocoena*) in gillnet fisheries throughout the stock's U.S. range. This action was conducted by NMFS under the authority of the Marine Mammal Protection Act.

4. Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 10. RIN 0648–AY00 (75 FR 11441; March 11, 2010). NMFS implemented approved measures in Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Amendment 10 was developed by the Mid-Atlantic Fishery Management Council to bring the FMP into compliance with Magnuson-Stevens Act requirements by establishing a rebuilding program that allows the butterfish stock to rebuild and protects the long-term health and stability of the stock; and by minimizing bycatch and the fishing mortality of unavoidable bycatch, to the extent practicable, in the MSB fisheries. Amendment 10 increased the minimum codend mesh size requirement for the long fin squid fishery; established a butterfish rebuilding program with a butterfish mortality cap for the long fin squid fishery; established a 72-hr trip notification requirement for the long fin squid fishery; and required an annual assessment of the butterfish rebuilding program by the Council's Scientific and Statistical Committee. This rule also made minor, technical corrections to the existing regulations. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

5. Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 16; Final Rule. RIN 0648–AW72 (75 FR 18261; April 9, 2010). NMFS issued the final rule to implement measures approved under Amendment 16 to the NE Multispecies Fishery Management Plan. Amendment 16 was developed by the New England Fishery Management Council as part of the biennial adjustment process in the FMP to update status determination criteria for all regulated NE multispecies and ocean pout stocks; to adopt rebuilding programs for NE multispecies stocks newly classified as being overfished and subject to overfishing; and to revise management measures, including significant revisions to the sector management measures, necessary to end overfishing, rebuild overfished regulated NE multispecies and ocean pout stocks, and mitigate the adverse economic impacts of increased effort controls. This final rule also implemented new requirements under Amendment 16 for establishing acceptable biological catch (ABC), annual catch limits (ACLs), and accountability measures (AMs) for each stock managed under the FMP, pursuant to the Magnuson-Stevens Act. Finally, this action added Atlantic wolffish to the list of species managed by the FMP. This action was necessary to address the results of the most recent stock assessment, which indicate that several additional regulated species are overfished and subject to overfishing, and that stocks currently classified as overfished require additional reductions in fishing mortality to rebuild by the end of their rebuilding periods. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act

6. Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31. RIN 0648–AX67. (75 FR 21512; April 26, 2010). NMFS issued this final rule to implement Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council. This final rule implemented restrictions applicable to the bottom longline component of the reef fish fishery in the exclusive economic zone (EEZ) of the eastern Gulf of Mexico. The restrictions included a bottom longline endorsement requirement, a seasonal closed area, and a limitation on the number of hooks that can be possessed and fished. The intent of this rule was to balance the continued operation of the bottom longline component of the reef fish fishery in the eastern Gulf while maintaining adequate protective measures for sea turtles. This action was conducted by NMFS under

the authority of the Magnuson-Stevens Act.

7. Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3; Final Rule. RIN 0648–AW65 (75 FR 30483; June 1, 2010). NMFS published this final rule to implement the Final Amendment 3 to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). As it developed Amendment 3, NMFS examined a full range of management alternatives available to rebuild blacknose sharks and end overfishing of blacknose and shortfin mako sharks, consistent with recent stock assessments, the Magnuson-Stevens Act, and other applicable law, and evaluated options for managing smooth dogfish as a highly migratory species under the HMS FMP. This final rule implemented the final conservation and management measures in Amendment 3 for blacknose sharks, shortfin mako sharks, and smooth dogfish. In order to reduce confusion with spiny dogfish regulations, this final rule places both smooth dogfish and Florida smoothhound into the ''smoothhound shark complex.'' This final rule also announced the opening date and 2010 annual quotas for small coastal sharks. These changes could have affected all fishermen, commercial and recreational, who fish for sharks in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

8. Endangered and Threatened Wildlife and Plants: Final Rulemaking to Establish Take Prohibitions for the Threatened Southern Distinct Population Segment of North American Green Sturgeon. RIN 0648–AV94 (75 FR 30714; June 2, 2010). This final Endangered Species Act (ESA) section 4(d) rule represented the regulations that we, NMFS, believe necessary and advisable to conserve the threatened Southern Distinct Population Segment of North American green sturgeon (*Acipenser medirostris*; hereafter Southern DPS). We applied the prohibitions listed under ESA section 9 for the Southern DPS, and we highlighted specific categories of activities that were likely to result in take of Southern DPS fish. We did not find it necessary and advisable to apply the take prohibitions to certain categories of activities that contribute to conserving the Southern DPS. We also provided a variety of methods by which take of the Southern DPS may have been authorized. This document also announces the availability of a final environmental assessment that analyzed the environmental impacts of promulgating the 4(d) regulations for the Southern DPS. This action was conducted by NMFS under the authority of the ESA.

9. Pacific Halibut Fisheries; Limited Access for Guided Sport Charter Vessels in Alaska. RIN 0648–AY85 (75 FR 56903; September 17, 2010). NMFS issued regulations amending the limited access program for charter vessels in the guided sport fishery for Pacific halibut in the waters of International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). These regulations revised the method of assigning angler endorsements to charter halibut permits to more closely align each endorsement with the greatest number of charter vessel anglers reported for each vessel that a charter business used to qualify for a charter halibut permit. This action was necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council. This action was conducted by NMFS under authority of the Northern Pacific Halibut Act of 1982.

10. Fisheries of the Exclusive Economic Zone Off Alaska; Modified Nonpelagic Trawl Gear and Habitat Conservation in the Bering Sea Subarea. RIN 0648–AY34 (75 FR 61642; October 6, 2010). NMFS issued a final rule that implemented Amendment 94 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. Amendment 94 required participants using nonpelagic trawl gear in the directed fishery for flatfish in the Bering Sea subarea to modify the trawl gear to raise portions of the gear off the ocean bottom. Amendment 94 also changed the boundaries of the Northern Bering Sea Research Area to establish the Modified Gear Trawl Zone (MGTZ) and to expand the Saint Matthew Island Habitat Conservation Area. Nonpelagic trawl gear also was required to be modified to raise portions of the gear off the ocean bottom if used in any directed fishery for groundfish in the MGTZ. This action was necessary to reduce potential adverse effects of nonpelagic trawl gear on bottom habitat, to protect additional blue king crab habitat near St. Matthew Island, and to allow for efficient flatfish harvest as the distribution of flatfish in the Bering Sea changes. This action was intended to promote the goals and objectives of the Magnuson- Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

11. Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Regulatory Amendment to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands. RIN 0648–AY05 (75 FR 67247; November 2, 2010). NMFS issued this final rule that implemented a regulatory amendment to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands prepared by the Caribbean Fishery Management Council. This rule modified the Bajo de Sico seasonal closure from a 3-month closure to a 6-month closure, and prohibits fishing for and possession of Caribbean reef fish in or from the EEZ portion of Bajo de Sico during the closure. The final rule also prohibited anchoring in the EEZ portion of Bajo de Sico year-round. In addition to the measures contained in the regulatory amendment, this final rule also added spear to the list of allowable gears in the commercial sector of the Caribbean reef fish fishery and revises the title of the FMP in the list of authorized fisheries and gear. The intended effect of this rule was to provide further protection for red hind spawning aggregations and large snappers and groupers, and better protect the essential fish habitat where these species reside. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

12. Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program. RIN 0648–AW24 (75 FR 69016; November 10, 2010). NMFS issued a final rule to amend regulations implementing the North Pacific Groundfish Observer Program (Observer Program). This action was necessary to improve the operational efficiency of the Observer Program, as well as to improve the catch, bycatch, and biological data collected by observers for conservation and management of the North Pacific groundfish fisheries, including those data collected through scientific research activities. The final rule was intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

13. Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures. RIN 0648–BA04 (75 FR74656; December 1, 2010). NMFS issued this final rule to implement actions identified in a regulatory amendment to the Fishery Management Plan for the Reef Fish

Resources of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council. This final rule reduced the commercial quota for red grouper and, thus, the combined commercial quota for shallow water grouper species, and requires vessels with valid commercial Gulf of Mexico reef fish permits to mark their buoy gear with the official vessel number. This rule also implemented minor revisions to codified text, including a revised definition of buoy gear, re-codification of the commercial and recreational quotas for greater amberjack, revision of the recreational accountability measure for greater amberjack, and removal of outdated language for the red snapper individual fishing quota program. The intended effect of this final rule was to help prevent overfishing of red grouper while achieving optimum yield by reducing red grouper harvest, consistent with the findings of the recent stock assessment for this species, and to implement technical corrections to the regulations. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

14. Atlantic Highly Migratory Species; 2011 Commercial Fishing Season and Adaptive Management Measures for the Atlantic Shark Fishery. RIN 0648–AY98 (75 FR 76302; December 8, 2010). This final rule established opening dates and adjusted quotas for the 2011 fishing season for sandbar sharks, non-sandbar large coastal sharks (LCS), blacknose shark, non-blacknose small coastal shark (SCS), blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) based on any over- and/or underharvests experienced during the 2009 and 2010 Atlantic commercial shark fishing seasons. NMFS was taking this action to establish the 2011 adjusted fishing quotas and to open the commercial fishing seasons for the Atlantic sandbar shark, non-sandbar LCS, blacknose shark, non-blacknose SCS, and pelagic shark fisheries based on over- and underharvests from the 2009 and 2010 fishing season. This action was expected to affect commercial shark fishermen in the Atlantic and Gulf of Mexico regions. In addition to establishing opening dates and adjusting annual quotas, this final rule implemented adaptive management measures, including flexible opening dates for the fishing season, as well as inseason adjustments to shark trip limits, to provide flexibility in management in the furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas. These actions were expected to affect commercial shark fishermen in the Atlantic and Gulf of Mexico regions. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

15. Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 17A; Emergency Rule To Delay Effectiveness of the Snapper-Grouper Area Closure; Final Rule and Temporary Rule. RIN 0648–AY10 (75 FR 76873; December 9, 2010). NMFS issued this final rule to implement Amendment 17A 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. This final rule established an ACL of zero for red snapper, which means all harvest and possession of red snapper in or from the South Atlantic EEZ is prohibited, and for a vessel with a Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, harvest and possession of red snapper is prohibited in or from State or Federal waters. This rule also implemented an area closure for South Atlantic snapper-grouper that extends from southern Georgia to northern Florida where harvest and possession of all snapper-grouper species is prohibited (except when fishing with black sea bass pots or spearfishing gear for species other than red snapper), and requires the use of non-stainless steel circle hooks when fishing for snapper-grouper species with hook and line gear north of 28 degrees N. latitude in the South Atlantic EEZ. Additionally, Amendment 17A established a rebuilding plan for red snapper and requires a monitoring program as the AM for red snapper. The intended effects of this rule were to end overfishing of South Atlantic red snapper and rebuild the stock. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

16. Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 17B. RIN 0648–AY11 (75 FR 82280; December 20, 2010). NMFS issued this final rule to implement Amendment 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, as prepared and submitted by the South Atlantic Fishery Management Council. This final rule established ACLs and AMs for eight snapper-grouper species in the FMP that were undergoing overfishing, and for black grouper, which was recently assessed and determined to not be undergoing overfishing or overfished; modified management measures to limit total mortality of those species to the ACL; and added ACLs, annual catch targets (ACTs), and AMs to the list of management measures that may be amended via the framework process. The intent of this final rule was to address overfishing of eight snapper-grouper species while maintaining catch levels consistent with achieving optimum yield. This action was conducted by NMFS under the authority of the Magnuson-Stevens Act.

Availability of Completed Reviews

NMFS will make available a copy of this notice and the completed reviews to the public at: *http://www.nmfs.noaa.gov/sfa/laws_policies/economic_social/index.html.*

Dated: June 2, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–11815 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 108
Wednesday, June 7, 2017

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comments Request—Assessing the Child Nutrition State Administrative Expense Allocation Formula

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection. The primary purpose of this study is to assess the effectiveness of the current formula used for State Administrative Expense (SAE) allocations for Child Nutrition Programs, identify and examine factors that influence State spending, and develop and test a range of possible alternatives to improve the SAE allocation formula.

DATES: Written comments must be received on or before August 7, 2017.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Jinee Burdg, MPP, RDN, LDN, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Jinee Burdg at 703–305–2744 or via email to *Jinee.Burdg@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Jinee Burdg at 703–305–2744.

SUPPLEMENTARY INFORMATION:

Title: Assessing the Child Nutrition State Administrative Expense Allocation Formula.

Form Number: Not applicable.

OMB Number: Not Yet Assigned.

Expiration Date: Not Yet Determined.

Type of Request: New collection.

Abstract: USDA's Food and Nutrition Service (FNS) administers Child Nutrition Programs (CNPs) that provide healthy food to children including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), Special Milk Program (SMP), and the Food Distribution Program (FDP) for schools. State agencies are responsible for oversight and administration of the CNPs, including monitoring program operations and distributing Federal cash reimbursements and USDA Foods. CNPs are operated by a variety of local public and private providers that enter into agreements with State agencies, including school food authorities, local government agencies, nonprofit sponsoring organizations, child care centers, and adult care centers, among others.

State agencies that administer these CNPs include Education, Agriculture, Health, and Human Services and Social Services agencies. In some States, all of these CNPs are administered by one State agency (Education or Agriculture), while in other States two or more agencies administer these programs. For example, in several States the agency that administers the FDP for schools is different than the agency that administers the other CNPs.

States receive Child Nutrition State Administrative Expense (SAE) funds from the Federal government to help cover their administrative costs.[1] SAE funds are appropriated annually to USDA FNS under the authority of Section 7(a) of the Child Nutrition Act of 1966 (the Act).[2] The Act sets forth the total amount of funds available for SAE and a formula for allocating the majority of the funds to States—commonly referred to as the ''nondiscretionary'' allocation. It also provides USDA with authority to decide how to allocate remaining funds, *i.e.,* the ''discretionary'' allocation. Program regulations at 7 CFR 235.4 include the statutory allocation formula as well as the formula USDA adopted for discretionary allocation of the funds. The Act also sets funds availability at two years, authorizes a reallocation process for unused funds, and requires a State plan for use of the funds, approved by FNS. SAE funds can be spent on reasonable, allocable, and necessary expenses incurred by the State including, but not limited to, salary and benefits, staff training, office equipment, support services, travel, monitoring and technical assistance activities. Funds that are not used by a State are returned for reallocation to other States; by law, no more than 20 percent of the initial allocation may be carried over by a State to the next fiscal year. Finally, the Act imposes a ''State Funding Requirement,'' under which States must contribute no less than their level of contribution in Fiscal Year 1977 to the SAE budget.

FNS is conducting a study, *Assessing the Child Nutrition State Administrative Expense Allocation Formula,* to assess the effectiveness of the current formula

[1] Two other child nutrition programs—the Summer Food Service Program and the Fresh Fruit and Vegetable Program—also receive administrative funding from FNS. Because these funds are allocated separately from State Administrative Expense funds, these programs are not covered by this study.

[2] 42 U.S.C. 1776(a).

used for SAE allocations, identify and examine factors that influence State spending of SAE funds, and develop and test a range of possible alternatives to improve the SAE allocation formula. The study approach includes a review of historical spending and allocation patterns, case studies of 12 States, and an assessment of alternative formulas. In each State selected for case study, Directors and key staff from all State agencies that receive SAE funds will be included.

Affected Public: State, Local or Tribal government. The burden for all respondents is broken down in the table below.

Type of Respondents: State agency Directors and key State agency staff with responsibility for SAE funding.

Estimated Number of Respondents: The total estimated number of respondents is 88 (88 respondents and 0 non-respondents). This includes: 22 State Directors and 66 State agency key staff with responsibility for SAE funding.

Estimated Frequency of Response: The estimated frequency of response is 4.83 annually.

Estimated Total Annual Responses: The total estimated number of responses for data collection is 425.

Estimated Time per Respondent: The estimated time of response varies from 1 minute to 2 hours, depending on the respondent group and activity. The recruitment (electronic study notification letter) for each respondent type will take 5 minutes (0.083 hours), and scheduling interviews for each respondent type will take 10 minutes (0.167 hours). The pre-visit telephone interview with State Directors will take 45 minutes (0.750 hours). The in-depth on-site interview with State Directors and key staff will take 2 hours, each. Interview follow up will take 10 minutes (0.167 hours) among State Directors and key staff. Thank you emails to the State Directors and key staff will take 1 minute, each (0.017 hours). The average estimated time across all respondents is 32 minutes (0.528 hours).

Estimated Total Annual Burden on Respondents: The total public reporting burden for this collection of information is estimated at 224.5 hours (annually). The estimated burden for each type of respondent is provided in the table below.

Respondent Type	Respondent Description	Type of Survey Instrument	Sample size (a)	Number of Respondents	Frequency of Response (annual)	Total Annual Responses	Average Hours per Response	Sub- Annual Burden	Number of non - respondents	Frequency of Response (annual)	Total Annual Responses	Average Hours per response	Sub-Total Annual Burden	Total Burden Hours
State Child Nutrition Agency	State Director	Electronic Study Notification Letter	22	22	1	22	0.083	1.8	0	0	0	0.000	0.0	1.8
		Call to schedule the pre-visit telephone interview	22	22	1	22	0.167	3.7	0	0	0	0.000	0.0	3.7
		Email to schedule the on-site in-depth interview	22	22	1	22	0.167	3.7	0	0	0	0.000	0.0	3.7
		State Director pre-visit telephone Interview	22	22	1	22	0.750	16.5	0	0	0	0.000	0.0	16.5
		State Director on-site in-depth interview	22	22	1	22	2.000	44.0	0	0	0	0.000	0.0	44.0
		State Director interview follow-up email	7	7	1	7	0.167	1.2	0	0	0	0.000	0.0	1.2
		State Director thank you email	22	22	1	22	0.017	0.4	0	0	0	0.000	0.0	0.4
	Key Staff	Electronic Study Notification Letter	66	66	1	66	0.083	5.5	0	0	0	0.000	0.0	5.5
		Email to schedule the on-site in-depth interview	66	66	1	66	0.167	11.0	0	0	0	0.000	0.0	11.0
		Key Staff on-site in-depth interview	66	66	1	66	2.000	132.0	0	0	0	0.000	0.0	132.0
		Key Staff follow-up email	22	22	1	22	0.167	3.7	0	0	0	0.000	0.0	3.7
		Key Staff thank you email	66	66	1	66	0.017	1.1	0	0	0	0.000	0.0	1.1
GRAND TOTAL			88	88	4.83	425	0.528	224.5	0	0.00	0.00	0.000	0.0	224.5

Dated: May 23, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017–11730 Filed 6–6–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Request for Extension and Revision of a Currently Approved Information Collection Under the Packers and Stockyards Act

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request that the Office of Management and Budget (OMB) approve a 3-year extension of a currently approved information collection in support of the reporting and recordkeeping requirements under the Packers and Stockyards Act of 1921,

as amended and supplemented (P&S Act). This approval is required under the Paperwork Reduction Act of 1995 (PRA).

DATES: We will consider comments that we receive by August 7, 2017.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- *Internet:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Hardcopy:* Mail, hand deliver, or courier to Dexter Thomas, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530–S, Washington, DC 20250–3604.
- *Fax:* (202) 690–2173.

Instructions: All comments should refer to the date and page number of this issue of the **Federal Register**. The information collection package, public comments and other documents relating to this action will be available for public inspection during regular business hours (7 CFR 1.27(b)). Please call GIPSA's Management and Budget Services at (202) 720–8479 to arrange a viewing of these documents.

FOR FURTHER INFORMATION CONTACT: Catherine Grasso, Program Analyst, Litigation and Economic Analysis Division at (202)720–7201 or *Catherine.M.Grasso@usda.gov.*

SUPPLEMENTARY INFORMATION: GIPSA administers and enforces the P&S Act (7 U.S.C. 181–229, 229c). The P&S Act prohibits unfair, deceptive, and fraudulent practices by livestock market agencies, dealers, stockyard owners, meat packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries.

Title: Packers and Stockyards Program Reporting and Recordkeeping Requirements.

OMB Number: 0580–0015.

Expiration Date of Approval: November 30, 2017.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The P&S Act and the regulations issued under the P&S Act authorize the collection of information for the purpose of enforcing the P&S Act and regulations and for conducting studies requested by Congress. Through the forms in this information collection, GIPSA's Packers and Stockyards Program (P&SP) gathers information that keeps P&SP current on the ownership and operations of regulated entities which permit P&SP oversight of the regulated entities. For example, P&SP gathers information regarding the number of head of livestock purchased and the cost of the livestock to determine if the entity is adequately bonded to protect the livestock sellers. The information regarding the amount of livestock purchased is also consolidated for public reporting in GIPSA's annual report. Other financial information is gathered to determine if the regulated entities are operating while solvent as required by the P&S Act. This information collection is necessary for GIPSA to monitor and examine financial, competitive, and trade practices in the livestock, meat packing and poultry industries. The purpose of this notice is to solicit comments from the public concerning GIPSA's information collection.

Estimate of Burden: Public reporting and recordkeeping burden for this collection of information is estimated to average 1.73 hours per response.

Respondents (Affected Public): Livestock auction markets, livestock dealers, packer buyers, meat packers, and live poultry dealers.

Estimated Number of Respondents: 22,900.

Estimated Number of Responses per Respondent: 3.2.

Estimated Total Annual Burden on Respondents: 348,328 hours.

As required by the PRA (44 U.S.C. 3506(c)(2)(A)) and its implementing regulations (5 CFR 1320.8(d)(1)(i)), GIPSA specifically requests comments on: (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 including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Authority: 44 U.S.C. 3506 and 5 CFR 1320.8.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–11806 Filed 6–6–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Socially-Disadvantaged Groups Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces that the Rural Business-Cooperative Service (Agency) is accepting fiscal year (FY) 2017 applications for the Socially-Disadvantaged Groups Grant (SDGG) program. The Agency will publish the program funding level on the SDGG Web site located at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Expenses incurred in developing applications are the responsibility of the applicant.

The purpose of this program is to provide technical assistance to Socially-Disadvantaged Groups in rural areas. Eligible applicants include Cooperatives, Groups of Cooperatives, and Cooperative Development Centers. This program supports Rural Development's (RD) mission of improving the quality of life for rural Americans and commitment to directing resources to those who most need them.

DATES: Completed applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 1, 2017. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date.

Electronic copies must be received by *http://www.grants.gov* no later than midnight Eastern Time July 25, 2017. Late applications are not eligible for funding under this Notice and will not be evaluated.

ADDRESSES: You should contact the USDA Rural Development State Office (State Office) located in the State where you are headquartered if you have questions. Contact information for State Offices can be found at: *http://www.rd.usda.gov/contact-us/state-offices.* You are encouraged to contact your State Office well in advance of the application deadline to discuss your project and ask any questions about the application process. Program guidance as well as application templates may be obtained at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant* or by contacting your State Office.

If you want to submit an electronic application, follow the instructions for the SDGG funding announcement located at *http://www.grants.gov.* Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. You are strongly encouraged to file your application early and allow sufficient time to manage any technical issues that may arise. If you want to submit a paper application, send it to the State Office located in the State where you are headquartered. If you are headquartered in Washington, DC, please contact the Grants Division, Cooperative Programs, Rural Business-Cooperative Service, at (202) 690–1374 for guidance on where to submit your application.

FOR FURTHER INFORMATION CONTACT: Grants Division, Cooperative Programs, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW., MS 3253, Room 4208–South, Washington, DC 20250–3250, or call 202–690–1374.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency Name: USDA Rural Business–Cooperative Service.

Funding Opportunity Title: Socially-Disadvantaged Groups Grant.

Announcement Type: Initial Notice.

Catalog of Federal Domestic Assistance Number: 10.871.

Dates: Application Deadline. You must submit your complete application by August 1, 2017, or it will not be considered for funding. Electronic applications must be received by *http://www.grants.gov* no later than midnight Eastern Time, July 25, 2017, or it will not be considered for funding.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0052.

A. Program Description

The SDGG program is authorized by section 310B (e)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (e)(11)). The primary objective of the SDGG program is to provide Technical Assistance to Socially-Disadvantaged Groups. Grants are available for Cooperative Development Centers, individual Cooperatives, or Groups of Cooperatives that serve Socially-Disadvantaged Groups and where a majority of their board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

Definitions

The definitions you need to understand are as follows:

Agency—Rural Business–Cooperative Service, an agency of the United States Department of Agriculture (USDA) Rural Development or a successor agency.

Conflict of Interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. Examples of conflicts of interest include using grant funds to pay a member of the applicant's board of directors to provide proposed Technical Assistance to Socially-Disadvantaged Groups; pay a cooperative member to provide proposed Technical Assistance to other members of the same cooperative; and pay an immediate family member of the applicant to provide proposed Technical Assistance to Socially-Disadvantaged Groups.

Cooperative—A business or organization owned by and operated for the benefit of those using its services and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Profits and earnings generated by the cooperative are distributed among the members, also known as user-owners.

Cooperative Development Center—A nonprofit corporation or institution of higher education operated by the grantee for cooperative or business development and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. It may or may not be an independent legal entity separate from the grantee.

Feasibility Study—An analysis of the economic, market, technical, financial, and management feasibility of a proposed Project.

Group of Cooperatives—A group of Cooperatives whose primary focus is to provide assistance to Socially-Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

Operating Cost—The day-to-day expenses of running a business; for example: Utilities, rent on the office space a business occupies, salaries, depreciation, marketing and advertising, and other basic overhead items.

Participant Support Costs—Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

Project—Includes all activities to be funded by the Socially-Disadvantaged Groups Grant.

Rural and Rural Area—Any area of a State:

(1) Not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States; and

(2) The contiguous and adjacent urbanized area,

(3) Urbanized areas that are rural in character as defined by 7 U.S.C. 1991(a)(13).

(4) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State. Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu census designated place (CDP) or the San Juan CDP.

Rural Development—A mission area within USDA consisting of the Office of Under Secretary for Rural Development, Rural Business–Cooperative Services, Rural Housing Service, and Rural Utilities Service and any successors.

Socially-Disadvantaged Group—A group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

State—Includes each of the 50 states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

Technical Assistance—An advisory service performed for the purpose of assisting Cooperatives or groups that want to form Cooperatives such as market research, product and/or service improvement, legal advice and assistance, Feasibility Study, business planning, marketing plan development, and training.

B. Federal Award Information

Type of Award: Competitive Grant.
Fiscal Year Funds: FY 2017.
Total Funding: $3,000,000.
Maximum Award: $175,000.
Project Period: 1 year.
Anticipated Award Date: September 29, 2017.

C. Eligibility Information

Applicants must meet all of the following eligibility requirements. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

1. *Eligible Applicants.* Grants may be made to individual Cooperatives, Groups of Cooperatives, and Cooperative Development Centers that serve Socially-Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Federally-recognized Tribes and tribal entities must demonstrate that they meet all definition requirements for one of the three eligible applicant types. You must be able to verify your legal structure in the State in which you are incorporated. Grants may not be made to public bodies or to individuals.

(a) An applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt.

(b) Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. *Cost Sharing or Matching.* No matching funds are required.

3. *Other Eligibility Requirements.*

Use of Funds: Your application must propose Technical Assistance that will benefit Socially-Disadvantaged Groups. Cooperatives that are recipients of Technical Assistance must have a membership that consists of a majority of members from Socially-Disadvantaged Groups. Please review section D (6) of this Notice, ''Funding Restrictions,'' carefully.

Project Eligibility: The proposed Project must only serve members of Socially-Disadvantaged Groups in Rural Areas.

Grant Period Eligibility: Your application must include a grant period of one-year or less or it will not be considered for funding. The proposed time frame should begin no earlier than the grant award date and end no later than December 31, 2018. However, you should note that the anticipated award date is September 29, 2017, so your proposed start date should be after September 29, 2017. Projects must be completed within the 12-months or less time frame. The Agency may approve requests to extend the grant period for up to an additional 12 months at its discretion. Further guidance on grant period extensions will be provided in the award document.

However, you may not have more than one active SDGG during the same grant period. If you receive another SDGG during the next grant cycle, the first grant must be closed before funds can be obligated for the new grant. Applications that request funds for a time period ending after December 31, 2018, will not be considered for funding.

Satisfactory Performance Eligibility: If you have an existing SDGG award, you must be performing satisfactorily to be considered eligible for a new SDGG award. Satisfactory performance includes being up-to-date on all financial and performance reports and being current on all tasks as approved in the work plan. The Agency will use its discretion to make this determination. In addition, if you have an existing award from the Rural Cooperative Development Grant (RCDG) program, you must discuss the status of your existing RCDG award at application time and be performing satisfactorily to be considered for a new SDGG award.

Completeness Eligibility: Your application must provide all of the information requested in Section D (2) of this Notice. Applications lacking sufficient information to determine eligibility and scoring will be considered ineligible.

Multiple Grant Eligibility: You may only submit one SDGG grant application each funding cycle.

D. Application and Submission Information

1. Address To Request Application Package

The application template for applying on paper for this funding opportunity is located at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Use of the application template is strongly recommended to assist you with the application process. You may also contact your USDA Rural Development State Office for more information. Contact information for State Offices is located at *http://www.rd.usda.gov/contact-us/state-offices.* You may also obtain an application package by calling 202–690–1374.

2. Content and Form of Application Submission

You may submit your application in paper form or electronically through *Grants.gov*. Your application must contain all required information.

To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept emailed or faxed applications.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* Web site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a DUNS number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

You must submit all of your application documents electronically through *Grants.gov*. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After electronically submitting an application through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

If you want to submit a paper application, send it to the State Office located in the State where you are headquartered. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices*.

Your application must also contain the following required forms and proposal elements:

(a) Form SF–424, ''Application for Federal Assistance,'' to include your DUNS number and SAM Commercial and Government Entity (CAGE) code and expiration date. Because there are no specific fields for a CAGE code and expiration date, you may identify them anywhere you want to on the form. If you do not include your DUNS number in your application, it will not be considered for funding.

(b) Form SF–424A, ''Budget Information-Non-Construction Programs.'' This form must be completed and submitted as part of the application package.

(c) Form SF–424B, ''Assurances—Non-Construction Programs.'' This form must be completed, signed, and submitted as part of the application package.

(d) Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants,'' if you are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands, or the various territories of the United States including American Samoa, Guam, Midway Islands, the Commonwealth of the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

(e) You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. You must also certify that you are not delinquent on the payment of Federal income taxes, or any Federal debt. To satisfy the Certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

(f) Table of Contents. Your application must contain a detailed Table of Contents (TOC). The TOC must include page numbers for each part of the application. Page numbers should begin immediately following the TOC.

(g) Executive Summary. A summary of the proposal, not to exceed one page, must briefly describe the Project, tasks to be completed, and other relevant information that provides a general overview of the Project.

(h) Eligibility Discussion. A detailed discussion, not to exceed four pages, must describe how you meet the following requirements:

(1) Applicant Eligibility. You must describe how you meet the definition of a Cooperative, Group of Cooperatives, or Cooperative Development Center. Your application must show that your individual Cooperative, Group of Cooperatives or Cooperative Development Center serves Socially-Disadvantaged Groups and a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Your application must include a list of your board of directors/governing board and the percentage of board of directors/governing board that are members of Socially-Disadvantaged Groups. NOTE: Your application will not be considered for funding if you fail to show that a majority of your board of directors/governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

If applying as a Cooperative or a Group of Cooperatives, you must verify your incorporation and status in the State that you have applied by providing the State's Certificate of Good Standing and your Articles of Incorporation. You may also submit your By-laws if they provide additional information not included in your Articles of Incorporation that will verify your status as a Cooperative or a Group of Cooperatives. If applying as a nonprofit corporation, you must provide evidence of your status as a nonprofit corporation in good standing and your Articles of Incorporation. If applying as an institution of higher education, you must qualify as an Institution of Higher Education as defined at 20 U.S.C. 1001. You must apply as only one type of applicant. The requested verification documents should be included in Appendix A of your application. If they are not included, your application will not be considered for funding.

(2) Use of Funds. You must provide a brief discussion on how the proposed Project activities meet the definition of Technical Assistance and identify the Socially-Disadvantaged Groups that will be assisted.

(3) Project Area. You must provide specific information that details the location of the Project area and explain how the area meets the definition of ''Rural Area.''

(4) Grant Period. You must provide a time frame for the proposed Project and discuss how the Project will be completed within that time frame. You must have a time frame of one year or less.

(5) Satisfactory Performance. If you have an existing SDGG and/or RCDG award, you must discuss the current status of the award(s).

(6) Indirect Costs. Your negotiated indirect cost rate approval does not need to be included in your application, but you will be required to provide it if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

(i) Scoring Criteria. Each of the scoring criteria in this Notice must be addressed in narrative form, with a maximum of three pages for each individual scoring criterion, unless otherwise specified. Failure to address each scoring criteria will result in the application being determined ineligible.

(j) The Agency has established annual performance evaluation measures to evaluate the SDGG program. You must provide estimates on the following performance evaluation measures as part of your narrative:

- Number of cooperatives assisted; and
- Number of socially disadvantaged groups assisted.

3. DUNS Number and SAM

In order to be eligible (unless you are excepted under 2 CFR 25.110(b), (c) or (d), you are required to:

(a) Provide a valid DUNS number in your application, which can be obtained at no cost via a toll-free request line at (866) 705–5711;

(b) Register in SAM before submitting your application. You may register in SAM at no cost at *https://www.sam.gov/portal/public/SAM/.* You must provide your SAM Cage Code and expiration date or evidence that you have begun the SAM registration process at time of application, and

(c) Continue to maintain an active SAM registration with current information at all times during which you have an active Federal award or an application or plan under consideration by a Federal awarding agency.

If you have not fully complied with all applicable DUNS and SAM requirements, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use that determination as a basis for making an award to another applicant. Please refer to Section F. 2 for additional submission requirements that apply to grantees selected for this program.

4. Submission Dates and Times

Application Deadline Date: August 1, 2017.

Explanation of Deadlines: Paper applications must be postmarked and mailed, shipped, or sent overnight by August 1, 2017. The Agency will determine whether your application is late based on the date shown on the postmark or shipping invoice. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day. Late applications are not eligible for funding and will not be evaluated further.

Electronic applications must be RECEIVED by *http://www.grants.gov* by midnight Eastern Time July 25, 2017, to be eligible for funding. Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. Intergovernmental Review

Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, is listed as applying to this program, however since this program is comprised of the provision of technical assistance which is of a non-construction nature the intergovernmental review process is not required.

You are also encouraged to contact Cooperative Programs at 202–690–1374 or *cpgrants@wdc.usda.gov* if you have questions about this process.

6. Funding Restrictions

Grant funds must be used for Technical Assistance. No funds made available under this solicitation shall be used to:

(a) Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

(b) Purchase, rent, or install fixed equipment, including processing equipment;

(c) Purchase vehicles, including boats;

(d) Pay for the preparation of the grant application;

(e) Pay expenses not directly related to the funded Project;

(f) Fund political or lobbying activities;

(g) To fund any activities considered unallowable by the applicable grant cost principles, including 2 CFR part 200, subpart E and the Federal Acquisition Regulation;

(h) Fund architectural or engineering design work for a specific physical facility;

(i) Fund any direct expenses for the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

(j) Fund research and development;

(k) Purchase land;

(l) Duplicate current activities or activities paid for by other Federal grant programs;

(m) Pay costs of the Project incurred prior to the date of grant approval;

(n) Pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(o) Pay any judgment or debt owed to the United States;

(p) Pay any Operating Costs of the Cooperative, Group of Cooperatives, or Cooperative Development Center not directly related to the Project;

(q) Pay expenses for applicant employee training or professional development not directly related to the Project; or

(r) Pay for any goods or services from a person who has a Conflict of Interest with the grantee.

(s) Pay for Technical Assistance provided to a Cooperative that does not have a membership that consists of a majority of members from Socially-Disadvantaged Groups.

In addition, your application will not be considered for funding if it does any of the following:

- Requests more than the maximum grant amount;
- Proposes ineligible costs that equal more than 10 percent of total grant funds requested; or
- Proposes Participant Support Costs that equal more than 10 percent of total grant funds requested.

We will consider your application for funding if it includes ineligible costs of 10 percent or less of total grant funds requested, as long as it is determined eligible otherwise. However, if your application is successful, those ineligible costs must be removed and replaced with eligible costs before the Agency will make the grant award or the amount of the grant award will be reduced accordingly. If we cannot determine the percentage of ineligible costs, your application will not be considered for funding.

7. Other Submission Requirements

(a) You should not submit your application in more than one format. You must choose whether to submit your application in hard copy or electronically. Applications submitted in hard copy should be mailed or hand-delivered to the State Office located in the State where you are headquartered. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.* To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* A password is not required to access the Web site.

(b) National Environmental Policy Act. This Notice has been reviewed in accordance with 7 CFR part 1970, ''Environmental Policies and Procedures.'' We have determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act (NEPA) regulation found at 7 CFR 1970.53(f). We have determined that this Notice does not constitute a major Federal action significantly affecting the quality of the human environment.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

(c) Civil Rights Compliance Requirements. All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973.

E. Application Review Information

1. Scoring Criteria

All eligible and complete applications will be evaluated based on the following criteria. Failure to address any one of the following criteria by the application deadline will result in the application being determined ineligible and the application will not be considered for funding. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual scoring criterion. SDGG is a competitive program, so you will receive scores based on the quality of your responses. Simply addressing the criteria will not guarantee higher scores. The total points possible for the criteria are 100.

(a) *Technical Assistance (maximum score of 25 points).* A panel of USDA employees will evaluate your application to determine your ability to assess the needs of and provide effective Technical Assistance to Socially-Disadvantaged Groups. You must discuss the:

(1) Needs of the Socially-Disadvantaged Groups to be assisted and explain how those needs were determined,

(2) Proposed Technical Assistance to be provided to the Socially-Disadvantaged Groups; and

(3) Expected outcomes of the proposed Technical Assistance, including how Socially-Disadvantaged Groups will benefit from participating in the Project. You will score higher on this criterion if you provide examples of past projects that demonstrate successful outcomes in identifying specific needs and providing Technical Assistance to Socially-Disadvantaged Groups.

(b) *Experience (maximum score of 25 points).* A panel of USDA employees will evaluate your experience, commitment and availability for identified staff or consultants in providing Technical Assistance, as defined in this Notice. You must describe the Technical Assistance experience for each identified staff member or consultant, as well as years of experience in providing that assistance. You must also discuss the commitment and the availability of identified staff, consultants, or other professionals to be hired for the project—especially those who may be consulting on multiple SDGG/RCDG projects. If staff or consultants have not been selected at the time of application, you must provide specific descriptions of the qualifications required for the positions to be filled. In addition, resumes for each individual staff member or consultant must be included as an attachment in Appendix B. The attachments will not count toward the maximum page total. We will compare the described experience in this section and in the resumes to the work plan to determine relevance of the experience. Applications that do not include the attached resumes will not be considered for funding.

Applications that demonstrate strong credentials, education, capabilities, experience and availability of Project personnel that will contribute to a high likelihood of Project success will receive more points than those that demonstrate less potential for success in these areas.

Points will be awarded as follows:

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–9 points will be awarded if qualifications and experience of some, but not all, staff is addressed and/or if necessary qualifications of unfilled positions are not provided.

(iii) 10–14 points will be awarded if all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(iv) 15–19 will be awarded if most, but not all, key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(v) 20–25 points will be awarded if all personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

(c) *Commitment (maximum of 10 points).* A panel of USDA employees will evaluate your commitment to providing Technical Assistance to Socially-Disadvantaged Groups in Rural Areas. You must list the number and location of Socially-Disadvantaged Groups that will directly benefit from the assistance provided. You must also define and describe the underserved and economically distressed areas within your service area and provide current and relevant statistics that support your description of the service area. Projects located in persistent poverty counties as defined by USDA's Economic Research Service will score higher on this factor.

(d) *Work Plan/Budget (maximum of 25 points)—Six page limit.* Your work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. Budget will be reviewed for completeness. You must list what tasks are to be done, when it will be done, who will do it, and how much it will cost. Reviewers must be able to understand what is being proposed and how the grant funds will be spent. The budget must be a detailed breakdown of estimated costs. These costs should be allocated to each of the tasks to be undertaken. The amount of grant funds requested will be reduced if the applicant does not have justification for all costs.

A panel of USDA employees will evaluate your work plan for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic, and efficient plans that allocate costs to specific tasks using applicable budget object class categories provided on the Form SF–424A will result in a higher score. You must discuss at a minimum:

(i) Specific tasks to be completed using grant funds;

(ii) How customers will be identified;

(iii) Key personnel; and

(iv) The evaluation methods to be used to determine the success of specific tasks and overall project objectives. Please provide qualitative methods of evaluation. For example, evaluation methods should go beyond quantitative measurements of completing surveys or number of evaluations.

(e) *Local support (maximum of 10 points).* A panel of USDA employees will evaluate your application for local support of the Technical Assistance activities. Your discussion on local support should include previous and/or expected local support and plans for coordinating with other developmental organizations in the proposed service area or with state and local government institutions. You will score higher if you demonstrate strong support from potential beneficiaries and other developmental organizations. You may also submit a maximum of 10 letters of support or intent to coordinate with the application to verify your discussion.

Points will be awarded as follows:

(i) 0 points are awarded if you do not adequately address this criterion.

(ii) 1–5 points are awarded if you demonstrate support from potential beneficiaries and other developmental organizations in your discussion but do not provide letters of support.

(iii) Additional 1 point is awarded if you provide 2–3 support letters that show support from potential beneficiaries and/or support from local organizations.

(iv) Additional 2 points are awarded if you provide 4–5 support letters that show support from potential beneficiaries and/or support from local organizations.

(v) Additional 3 points are awarded if you provide 6–7 support letters that show support from potential beneficiaries and/or support from local organizations.

(vi) Additional 4 points are awarded if you provide 8–9 support letters that show support from potential beneficiaries and/or support from local organizations.

(vii) Additional 5 points are awarded if you provide 10 support letters that show support from potential beneficiaries and/or support from local organizations.

You may submit a maximum of 10 letters of support. Support letters should come from potential beneficiaries and other local organizations. Letters received from Congressional members and Technical Assistance providers will not be included in the count of support letters received. Additionally, identical form letters signed by multiple potential beneficiaries and/or local organizations will not be included in the count of support letters received. Support letters should be included as an attachment to the application in Appendix C and will not count against the maximum page total. Additional letters from industry groups, commodity groups, Congressional members, and similar organizations should be referenced, but not included in the application package. When referencing these letters, provide the name of the organization, date of the letter, the nature of the support, and the name and title of the person signing the letter.

(f) *Administrator Discretionary Points (maximum of 5 points).* The Administrator of the Agency may choose to award up to 5 points to an application to improve the geographic diversity of awardees or to prioritize projects that provide assistance to unserved or underserved Rural Areas in a fiscal year.

2. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements in this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. The panel will consist of USDA employees with expertise in providing Technical Assistance to Socially-Disadvantaged Groups. The review panel will convene to reach a consensus on the scores for each of the eligible applications. A recommendation will be submitted to the Administrator to fund applications in highest ranking order. The Administrator of the Agency may choose to award up to 5 Administrator priority points based on criterion (f) in section E.1. of this Notice. These points will be added to the cumulative score for a total possible score of 100. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion. If your application is ranked and not funded, it will not be carried forward into the next competition.

F. Federal Award Administration Information

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal mail, containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing via postal mail and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available FY 2017 funding.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 2 CFR parts 200, 215, 400, 415, 417, 418, and 421. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (See 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act reporting requirements (See 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). These regulations may be obtained at *http://www.gpoaccess.gov/cfr/index.html.*

The following additional requirements apply to grantees selected for this program:

- Agency approved Grant Agreement.
- Letter of Conditions.
- Form RD 1940–1, ''Request for Obligation of Funds.''
- Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.''
- Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirement (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.'' Must be signed by corporate applicants who receive an award under this Notice.
- Form RD 400–4, ''Assurance Agreement.''
- SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

3. Reporting

After grant approval and through grant completion, you will be required to provide the following:

a. A SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the following: A comparison of actual accomplishments to the objectives established for that period;

b. Reasons why established objectives were not met, if applicable;

c. Reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

d. Objectives and timetable established for the next reporting period.

e. Provide a final project and financial status report within 90 days after the expiration or termination of the grant.

f. Provide outcome project performance reports and final deliverables.

G. Agency Contacts

For general questions about this announcement and for program Technical Assistance, please contact the appropriate State Office as indicated in the **ADDRESSES** section of this Notice. You may also contact National Office staff: Susan Horst, SDGG Program Lead, *Susan.Horst@wdc.usda.gov,* or call 202–690–1374.

H. Other Information

Non Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

Dated: May 26, 2017.

Chadwick O. Parker,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2017–11739 Filed 6–6–17; 8:45 am]

BILLING CODE 3410–XY–P

BROADCASTING BOARD OF GOVERNORS

Request for Comments on the Broadcasting Board of Governors' Implementation of a Comprehensive Plan for Reorganizing the Executive Branch

AGENCY: Broadcasting Board of Governors (BBG).

ACTION: Request for comments.

SUMMARY: Executive Order 13781, ''Comprehensive Plan for Reorganizing the Executive Branch,'' signed into effect on March 13, 2017, directs the Director of the Office of Management and Budget (OMB) to present the President with a plan that recommends ways to reorganize the executive branch and eliminate unnecessary agencies. As part of this process, the Broadcasting Board of Governors will be submitting a proposal for reorganization to OMB. This request for comments seeks public input on potential reforms at the BBG that would increase the efficiency, effectiveness, and accountability of the agency. These comments will also be considered in the development of the BBG's 2018–2022 Strategic Plan.

The BBG is the federal agency charged with carrying out U.S. Government funded international media, overseeing the operations of five media networks: the Voice of America (VOA), Radio and TV Marti, Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia (RFA), and the Middle East Broadcasting Networks (MBN).

DATES: Submit either electronic comments or information by June 30, 2017. We will not accept comments by fax or paper delivery.

ADDRESSES: Submit comments through the BBG Web site at *https://www.bbg.gov/submit-your-ideas/*.

FOR FURTHER INFORMATION CONTACT: Matt Ciepielowski at 202–203–4845.

SUPPLEMENTARY INFORMATION: Through this request for comments, the BBG is seeking initial feedback from a broad range of stakeholders on questions that will contribute to the BBG's proposal to OMB in accordance with Executive Order 13781 and the BBG's 2018–2022 Strategic Plan. This request for comments is for information-gathering and fact-finding purposes only, and should not be construed as a solicitation or as an obligation on the part of the BBG to agree with submitted comments or to make recommendations regarding specific issues identified in public comments. The BBG requests that respondents generally address the following overarching questions:

- What are the most important or effective projects or programs that the BBG undertakes?
- Do you think that there are any changes that BBG could make to increase the efficiency, effectiveness, and accountability of its media networks or the agency itself? If so, please describe those changes.
- Would you propose reorganizing any parts or aspects of the BBG or its media networks to increase efficiency, effectiveness, and accountability? If so, how?
- In today's changing media landscape, how should the BBG adapt to best serve its mission to inform, engage, and connect people around the world in support of freedom and democracy?

Oanh Tran,

Director of Board Operations, Broadcasting Board of Governors.

[FR Doc. 2017–11832 Filed 6–6–17; 8:45 am]

BILLING CODE 86100–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2017]

Foreign-Trade Zone (FTZ) 43—Battle Creek, Michigan, Notification of Proposed Production Activity, Pfizer, Inc., (Pharmaceutical Products), Kalamazoo, Michigan

Pfizer Inc. (Pfizer) submitted a notification of proposed production activity to the FTZ Board for its facility in Kalamazoo, Michigan within Subzone 43E. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 12, 2017.

Pfizer already has authority to produce certain pharmaceutical products within Subzone 43E. The current request would add finished products and a foreign status material/component to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material/component and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Pfizer from customs duty payments on the foreign-status material/components used in export production. On its domestic sales, Pfizer would be able to choose the duty rate during customs entry procedures that apply to crisaborole (Eucrisa™) (duty free) in finished product and bulk form for the

foreign-status material/component noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material/component sourced from abroad is crisaborole—active pharmaceutical ingredient (duty rate 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 17, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 2, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11835 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–26–2017]

Foreign-Trade Zone (FTZ) 80—San Antonio, Texas, Notification of Proposed Production Activity, DPT Laboratories, Ltd., (Pharmaceutical Products), San Antonio, Texas

DPT Laboratories, Ltd. (DPT) submitted a notification of proposed production activity to the FTZ Board for its facilities in San Antonio, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 17, 2017.

The request indicates that a separate application for subzone designation for two DPT facilities under FTZ 80 will be submitted. Any such application would be processed under Section 400.38 of the Board's regulations. The facilities will be used to produce certain pharmaceutical products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status material/component and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt DPT from customs duty payments on the foreign-status material/componens used in export production. On its domestic sales, DPT would be able to choose the duty rate during customs entry procedures that apply to crisaborole (Eucrisa™) (duty free) in finished product and bulk form for the foreign-status input noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material/component sourced from abroad is crisaborole—active pharmaceutical ingredient (duty rate 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 17, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 2, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11833 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–28–2017]

Foreign-Trade Zone 186—Waterville, Maine Application for Production Authority, Flemish Master Weavers, Subzone 186A, (Machine-Made Woven Area Rugs), Sanford, Maine

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Waterville, Maine, grantee of FTZ 186, requesting production authority on behalf of Flemish Master Weavers (FMW), located within Subzone 186A in Sanford, Maine. The application conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.23) was docketed on April 18, 2017.

The FMW facility (127 employees, 4.08 acres) is used for the production of machine-made woven area rugs. FMW already has restricted FTZ authority to produce area rugs using polypropylene and polyester yarns in privileged foreign status (19 CFR 146.41), which precludes inverted tariff benefits on those inputs (see 81 FR 51850, August 5, 2016).

The pending application requests authority for FMW to use imported continuous filament polypropylene yarn in non-privileged foreign status (19 CFR 146.42). If the application were approved, on its domestic sales, FMW would be able to choose the duty rate during customs entry procedures that applies to machine-made woven area rugs (duty free) for the imported continuous filament polypropylene yarn (otherwise dutiable at 8%). Customs duties also could possibly be deferred or reduced on foreign-status production equipment. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the FTZ Board's regulations, Diane Finver of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 7, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 21, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: June 2, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11837 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–31–2017]

Foreign-Trade Zone 19—Omaha, Nebraska, Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Omaha Chamber of Commerce, grantee of FTZ 19, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 15, 2017.

FTZ 19 was approved by the FTZ Board on January 27, 1983 (Board Order 204, 48 FR 5772, February 8, 1983). The current zone includes the following sites: *Site 1* (17 acres)—Cargo Zone, LLC, 6200 North 16th Street, Omaha; and, *Site 2* (38 acres)—Riverfront Industrial Park, Abbott Drive and Crown Point Avenue, Omaha.

The grantee's proposed service area under the ASF would be Burt, Cass, Dodge, Douglas, Sarpy, Saunders and Washington Counties, Nebraska, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the Omaha, Nebraska U.S. Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include both sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time. The application would have no impact on FTZ 19's previously authorized subzone.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 7, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 21, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: June 2, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11834 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–25–2017]

Foreign-Trade Zone (FTZ) 39—Dallas-Fort Worth, Texas, Notification of Proposed Production Activity, Valeo North America, Inc., d/b/a Valeo Compressor North America, (Motor Vehicle Air-Conditioner Compressors), Dallas, Texas

Valeo North America, Inc. d/b/a Valeo Compressor North America (Valeo), submitted a notification of proposed production activity to the FTZ Board for its facility in Dallas, Texas, within FTZ 39-Site 1. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 12, 2017.

Valeo already has authority to produce air-conditioner compressor assemblies for motor vehicles. The current request would add certain foreign-status components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign status components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Valeo from customs duty payments on the foreign status components used in export production. On its domestic sales, Valeo would be able to choose the duty rates during customs entry procedures that apply to air-conditioner compressor assemblies and electromagnetic compressor/clutch assemblies in the company's existing scope of authority (duty rate ranges from free to 3.1%). Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components sourced from abroad include: Stainless steel bolts; stainless steel screws (less than and more than 6mm in diameters); and, electromagnetic shims and rings (duty rate ranges from free to 8.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 17, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 2, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11836 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Rescission of Review in Part, and Preliminary Intent To Rescind New Shipper Review; 2015–2016

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review and a new

shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) for the administrative review and the aligned new shipper review is September 1, 2015, through August 31, 2016. The administrative review covers two mandatory respondent exporters of the subject merchandise, Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature) and Yancheng Hi-King Agriculture Developing Co., Ltd. (Yancheng Hi-King). The new shipper review covers Jingzhou Tianhe Aquatic Products, Ltd. (Jingzhou Tianhe). The Department preliminarily determines that sales of subject merchandise by Hubei Nature have been made at prices below normal value, and sales of subject merchandise by Yancheng Hi-King have not been made at prices below normal value. The Department also preliminarily determines that Jingzhou Tianhe's single sale made to the United States during the POR was not *bona fide.* The Department preliminarily intends to rescind the new shipper review with respect to Jingzhou Tianhe.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen at (202) 482–3683 (Hubei Nature), Joseph Shuler (202) 482–1293 (Yancheng Hi-King), or Dmitry Vladimirov (202) 482–0665 (Jingzhou Tianhe), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the antidumping duty order is freshwater crawfish tail meat, which is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 1605.40.10.10, 1605.40.10.90, 0306.19.00.10, and 0306.29.00.00. On February 10, 2012, the Department added HTSUS classification number 0306.29.01.00 to the scope description pursuant to a request by U.S. Customs and Border Protection (CBP). While the HTSUS numbers are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

Rescission of Administrative Review in Part

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation.

Parties withdrew their review requests for eight of the eleven companies for which a review was requested. These withdrawals of review requests were submitted within the deadline set forth under 19 CFR 351.213(d)(1) and no other parties requested a review of these companies. Accordingly, the Department is rescinding this review, in part, with respect to China Kingdom (Beijing) Import & Export Co., Ltd., Deyan Aquatic Products and Food Co., Ltd., Hubei Qianjiang Huashan Aquatic Food and Product Co., Ltd., Hubei Yuesheng Aquatic Products Co., Ltd., Nanjing Gemsen International Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Weishan Hongda Aquatic Food Co., Ltd., and Xuzhou Jinjiang Foodstuffs Co., Ltd., in accordance with 19 CFR 351.213(d)(1).[2]

Bona Fides Analysis

As discussed in the Preliminary Decision Memorandum, we preliminarily find that the sale made by Jingzhou Tianhe is not *bona fide.*[3] We reached this conclusion based on the following totality of circumstances: The quantity and price of the U.S. sale are not reflective of the normal commercial reality; the suspect timing of the U.S. sale; the severe tardiness in the receipt of payment; and certain atypical business practices which are additional factors that are at odds with the normal business considerations of a *bona fide* sale.[4] Because the non-*bona fide* sale at issue here was the only sale of subject merchandise that Jingzhou Tianhe made to the United States during the POR, we are preliminarily rescinding the new shipper review of this company.

Separate Rate for Eligible Non-Selected Respondents

The Department preliminarily determines that the respondent not selected for individual examination, Xiping Opeck Food Co., Ltd. (Xiping Opeck), is eligible to receive separate rate in this review.[5] Consistent with our practice, we assigned to Xiping Opeck the weighted-average margin calculated for Hubei Nature as the separate rate for the preliminary results of this review.[6]

PRC-Wide Entity

The Department's policy regarding conditional review of the PRC-wide entity applies to this administrative review.[7] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.,* 223.01 percent).[8]

Methodology

The Department is conducting these reviews in accordance with section 751(a)(1)(B), and (a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. Export price is calculated in accordance with section 772(c) of the Act. Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Department's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* A list of the topics discussed in the Preliminary

[1] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China; 2015–2016,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[2] For more details, *see* the Preliminary Decision Memorandum.

[3] *See* Preliminary Decision Memorandum; *see also* Memorandum, ''New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China—*Bona Fides* Analysis of Jingzhou Tianhe Aquatic Products Co., Ltd.'s Sale,'' dated concurrently with this memorandum.

[4] *Id.*

[5] *See* Preliminary Decision Memorandum at 9–10 for more details.

[6] *Id.*

[7] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[8] *See Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review,* 68 FR 19504 (April 21, 2003).

Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of Administrative Review

The Department determines that the following preliminary dumping margins exist for the administrative review covering the period September 1, 2015, through August 31, 2016:

Producer/exporter	Weighted-average margin (percent)
Hubei Nature Agriculture Industry Co., Ltd	5.10
Xiping Opeck Food Co., Ltd	5.10
Yancheng Hi-King Agriculture Developing Co., Ltd[9]	0.00

Disclosure

We intend to disclose calculations performed in these preliminary results to parties within five days after public announcement of the preliminary results.[10]

Public Comment

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[11] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[12]

Pursuant to 19 CFR 351.310 (c) interested parties who wish to request a hearing, or participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance. All documents must be filed electronically using ACCESS which is available to registered users at *http://access.trade.gov.* An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[13] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

Unless the deadline is extended, the Department will issue the final results of these reviews, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon issuing the final results, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by these reviews.[14] If a respondent's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of these reviews, the Department will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and, where possible, the total entered value of sales. If the Department proceeds with a final rescission of the new shipper review with respect to Jingzhou Tianhe, its entry will be assessed at the rate entered.[15]

In these preliminary results, the Department applied the assessment rate calculation method adopted in the *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with the importer with offsets being provided for non-dumped comparisons.[16] Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[17]

For entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of these reviews.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of these reviews (except if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, then no cash deposit will be required) (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

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 these PORs. 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.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing the preliminary results of these reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iv),

[9] This rate preliminarily applies to Yancheng Hi-King Agriculture Developing Co., Ltd. and Yancheng Seastar Seafood Co., Ltd. *See* the ''Separates Rates'' section of the Preliminary Decision Memorandum for more details.

[10] *See* 19 CFR 351.224(b).

[11] *See* 19 CFR 351.309(d).

[12] *See* 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

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

[14] *See* 19 CFR 351.212(b)(1).

[15] *See* 19 CFR 351.212(c)(2).

[16] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[17] *See* 19 CFR 351.106(c)(2).

751(a)(3), 777(i) of the Act, and 19 CFR 351.213, 351.214 and 351.221(b)(4).

Dated: June 1, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Rescission of Administrative Review in Part
V. *Bona Fides* Analysis
VI. Discussion of Methodology
A. Non-Market-Economy Country Status
B. Surrogate Country
C. Separate Rates
1. Absence of *De Jure* Control
2. Absence of *De Facto* Control
3. Separate Rate for Eligible Non-Selected Respondent
D. Fair Value Comparisons
1. Determination of Comparison Method
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E. U.S. Price
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VII. Currency Conversion
VIII. Recommendation

[FR Doc. 2017–11824 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2015

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies have been provided to producers and exporters of aluminum extrusions from the People's Republic of China (PRC). The period of review (POR) is January 1, 2015 through December 31, 2015.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Tom Bellhouse, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1121 or (202) 482–0257, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this administrative review on July 7, 2016.[1] On January 13, 2017, the Department initiated an administrative review of one additional company that had been inadvertently omitted from the *Initiation Notice*.[2] Because the petitioner withdrew its request for review of certain companies, only 18 companies remain under review.[3] On January 17, 2017, the Department selected tenKsolar (Shanghai) Aluminum Co., Ltd. (tenKsolar) and Changzhou Jinxi Machinery Co., Ltd. (Changzhou Jinxi) for individual examination.[4]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov*, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the Order is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[6]

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10,

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 44260 (July 7, 2016) (*Initiation Notice*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 4294 & n.10, dated January 13, 2017 (*Corrected Initiation Notice*).

[3] The following companies are under review: (1) Changzhou Jinxi, (2) tenKsolar, (3) Classic & Contemporary Inc., (4) Daya Hardware Co., LTD, (5) Dongguan Golden Tiger Hardware Industrial Co., Ltd., (6) ETLA Technology (Wuxi) Co., Ltd., (7) Global Hi-Tek Precision Limited, (8) Jiangsu Zhenhexiang New Material Technology Co., Ltd., (9) Johnson Precision Engineering (Suzhou) Co Ltd, (10) Kam Kiu Aluminium Products Sdn. Bhd., (11) Ningbo Haina Machine Co., Ltd., (12) Ningbo Innopower Tengda Machinery Co., Ltd., (13) Ningbo Yinzhou Sanhua Electric Machine Factory, (14) Precision Metal Works LTD., (15) Summit Heat Sinks Metal Co., Ltd., (16) Suzhou New Hongji Precision Part Co. Ltd., (17) Taishan City Kam Kiu Aluminium Extrusion Co., Ltd., and (18) Wuxi Huida Aluminum Co., Ltd.

[4] *See* Memorandum, ''2015 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China,'' dated January 17, 2017 (Respondent Selection Memorandum).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Aluminum Extrusions from the People's Republic of China and Rescission of Review, in Part; 2015,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Preliminary Decision Memorandum for a complete description of the scope of the *Order.*

9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this Order is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *e.g.,* a financial contribution by an ''authority'' that confers a benefit, and that the subsidy is specific.[7]

For a full description of the methodology underlying our preliminary conclusions, including our reliance, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum. As explained in the Preliminary Decision Memorandum, the Department relied on adverse facts available because the Government of China (GOC) and both of the mandatory respondents did not act to the best of their ability in responding to the Department's requests for information, and consequently, has drawn an adverse inference, where appropriate, in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Rescission of Review, in Part

For those companies named in the *Initiation Notice* for which all review requests have been timely withdrawn, we are rescinding this administrative review in accordance with 19 CFR 351.213(d)(1). These companies are listed at Appendix II to this notice. For these companies, countervailing duties shall be assessed at rates equal to the rates of the cash deposits for estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(2).

Also, between July 25, 2016 and August 8, 2016 the Department timely received no-shipment certifications from eight companies.[9] However, these companies were also included in the Petitioner's timely withdrawal of its review requests, and because no party other than the petitioner requested a review of these companies, the Department is rescinding the administrative review of these companies pursuant to 19 CFR 351.213(d)(1).[10]

Preliminary Rate for the Non-Selected Companies Under Review

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for cooperative non-selected companies in reviews in a manner that is consistent with sections 703(d) and 705(c)(5)(A) of the Act, which provide that the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on facts available under section 776 of the Act. However, if the countervailable subsidy rates established for all exporters and producers individually investigated are zero or *de minimis,* or are determined entirely based on facts available under section 776 of the Act, the Department may use any reasonable method to establish the all-others rate. In past reviews, the Department has determined that a reasonable method to use when all the rates of selected mandatory respondents are zero, *de minimis* or determined entirely on facts available, is to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis,* or based entirely on facts available.[11] Because all individually calculated rates in this review are based entirely on facts available, we have preliminarily based the rate for cooperative non-selected companies on the rate established for cooperative non-selected companies in *Aluminum Extrusions 2014 Review,*[12] which is the average of the most recently determined rates established for cooperative individually examined respondents in any segment of this proceeding that are not zero, *de minimis,* or based entirely on facts available.[13]

Preliminary Determination

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Ad Valorem rate (percent)
tenKsolar (Shanghai) Co., Ltd	198.61
Changzhou Jinxi Machinery Co., Ltd	198.61
Classic & Contemporary Inc	16.08
Daya Hardware Co., LTD	16.08
Dongguan Golden Tiger Hardware Industrial Co., Ltd	16.08
ETLA Technology (Wuxi) Co., Ltd	16.08
Global Hi-Tek Precision Limited	16.08
Jiangsu Zhenhexiang New Material Technology Co., Ltd	16.08
Johnson Precision Engineering (Suzhou) Co Ltd	16.08
Kam Kiu Aluminum Products Sdn Bhd	16.08
Ningbo Haina Machine Co., Ltd	16.08
Ningbo Innopower Tengda Machinery Co., Ltd	16.08

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Preliminary Decision Memorandum at ''Partial Rescission of Review.''

[10] *Id.*

[11] *See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part,*'' 79 FR 51140, 51141 (August 27, 2014) (*Circular Welded Pipe From Turkey*); and *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 47191, 47194–95 (September 15, 2009) (*Shrimp from Vietnam*).

[12] *See Aluminum Extrusions from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014,* 81 FR 92778 (*Aluminum Extrusions 2014 Review*).

[13] *See* Preliminary Decision Memorandum at ''*Ad Valorem* Rate for Cooperative Non-Selected Companies Under Review.''

Company	Ad Valorem rate (percent)
Ningbo Yinzhou Sanhua Electric Machine Factory	16.08
Precision Metal Works LTD	16.08
Summit Heat Sinks Metal Co., Ltd	16.08
Suzhou New Hongji Precision Parts Co Ltd	16.08
Taishan City Kam Kiu Aluminium Extrusion Co., Ltd	16.08
Wuxi Huida Aluminum Co., Ltd	16.08

Assessment Rates Cash Deposit Requirements

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after publication of the final results of this review.

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated above for each company listed on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within ten days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication of the preliminary determination. Rebuttal comments (rebuttal briefs), limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[14] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Issues addressed at the hearing will be limited to those raised in the briefs.[16] All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: May 31, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Partial Rescission of Review
IV. Extension of the Preliminary Results
V. Scope of the Order
VI. Use of Adverse Facts Available
VII. *Ad Valorem* Rate for Non-Cooperative Companies Under Review
VIII. *Ad Valorem* Rate for Cooperative Non-Selected Companies Under Review
IX. Conclusion

Appendix II—List of Companies for Which We Are Rescinding This Administrative Review [17]

1. Acro Import and Export Co.
2. Activa International Inc.
3. Allied Maker Limited
4. Alnan Aluminum Co., Ltd.
5. Aluminicaste Fundicion de Mexico
6. AMC Ltd.
7. Atlas Integrated Manufacturing Ltd.
8. Belton (Asia) Development Ltd.
9. Birchwoods (Lin'an) Leisure Products Co., Ltd.
10. Bolnar Hong Kong Ltd.
11. Bracalente Metal Products (Suzhou) Co., Ltd.
12. Changshu Changshen Aluminum Products Co., Ltd.
13. Changzhou Changzhen Evaporator Co., Ltd.
14. Changzhou Tenglong Auto Parts Co., Ltd.
15. China Square
16. China Square Industrial Co.
17. China Zhongwang Holdings, Ltd.
18. Chiping One Stop Industrial & Trade Co., Ltd.
19. Clear Sky Inc.
20. Cosco (J.M.) Aluminum Co., Ltd.
21. Dalian Huacheng Aquatic Products
22. Dalian Liwang Trade Co., Ltd.
23. Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.
24. Dongguan Dazhan Metal Co., Ltd.
25. Dongguang Aoda Aluminum Co., Ltd.
26. Dragonluxe Limited
27. Dynabright International Group (HK) Ltd.
28. Dynamic Technologies China
29. Ever Extend Ent. Ltd.
30. Fenghua Metal Product Factory
31. First Union Property Limited
32. FookShing Metal & Plastic Co. Ltd.
33. Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone
34. Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.
35. Foshan Golden Source Aluminum Products Co., Ltd.
36. Foshan Guangcheng Aluminium Co., Ltd
37. Foshan Jinlan Aluminum Co. Ltd.
38. Foshan JMA Aluminum Company Limited
39. Foshan Shanshui Fenglu Aluminum Co., Ltd.
40. Foshan Shunde Aoneng Electrical Appliances Co., Ltd
41. Foshan Yong Li Jian Aluminum Co., Ltd.
42. Fujian Sanchuan Aluminum Co., Ltd.
43. Fuzhou Sunmodo New Energy Equipment
44. Genimex Shanghai, Ltd.
45. Global PMX Dongguan Co., Ltd.
46. Global Point Technology (Far East) Limited
47. Gold Mountain International

[14] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

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

[17] According to information on the record of this review, certain companies listed below made no shipments to the United States during the instant review period. Each such company is identified as a ''no shipments company.''

Development, Ltd.
48. Golden Dragon Precise Copper Tube Group, Inc.
49. Gran Cabrio Capital Pte. Ltd.
50. Gree Electric Appliances
51. GT88 Capital Pte. Ltd.
52. Guang Ya Aluminium Industries (HK) Ltd.
53. Guang Ya Aluminium Industries Co., Ltd.
54. Guangdong Hao Mei Aluminium Co., Ltd.
55. Guangdong Jianmei Aluminum Profile Company Limited
56. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.
57. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.
58. Guangdong Weiye Aluminum Factory Co., Ltd.
59. Guangdong Whirlpool Electrical Appliances Co., Ltd.
60. Guangdong Xin Wei Aluminum Products Co., Ltd.
61. Guangdong Xingfa Aluminum Co., Ltd.
62. Guangdong Yonglijian Aluminum Co., Ltd.
63. Guangdong Zhongya Aluminum Company Limited
64. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.
65. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.
66. Hangzhou Xingyi Metal Products Co., Ltd.
67. Hanwood Enterprises Limited
68. Hanyung Alcoba Co., Ltd.
69. Hanyung Alcobis Co., Ltd.
70. Hanyung Metal (Suzhou) Co., Ltd.
71. Hao Mei Aluminum Co., Ltd.
72. Hao Mei Aluminum International Co., Ltd.
73. Hebei Xusen Wire Mesh Products Co., Ltd.
74. Henan New Kelong Electrical Appliances Co., Ltd.
75. Hong Kong Gree Electric Appliances Sales Limited
76. Hong Kong Modern Non-Ferrous Metal
77. Honsense Development Company
78. Hui Mei Gao Aluminum Foshan Co., Ltd.
79. IDEX Dinglee Technology (Tianjin) Co., Ltd.
80. IDEX Health
81. IDEX Technology Suzhou Co., Ltd.
82. Innovative Aluminum (Hong Kong) Limited
83. iSource Asia
84. Jackson Travel Products Co., Ltd.
85. Jangho Curtain Wall Hong Kong Ltd.
86. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd.
87. Jiangmen Jianghai Foreign Ent. Gen.
88. Jiangmen Qunxing Hardware Diecasting Co., Ltd.
89. Jiangsu Changfa Refrigeration Co.
90. Jiangyin Suncitygaylin
91. Jiangyin Trust International Inc.
92. Jiangyin Xinhong Doors and Windows Co., Ltd.
93. Jiaxing Jackson Travel Products Co., Ltd.
94. Jiaxing Taixin Metal Products Co., Ltd.
95. Jiuyan Co., Ltd.
96. JMA (HK) Company Limited
97. Justhere Co., Ltd.
98. Kanal Precision Aluminum Product Co., Ltd
99. Karlton Aluminum Company Ltd.
100. Kong Ah International Company Limited
101. Kromet International Inc.
102. Kunshan Giant Light Metal Technology Co., Ltd.
103. Liaoning Zhongwang Group Co., Ltd.
104. Liaoyang Zhongwang Aluminum Profile Co. Ltd.
105. Longkou Donghai Trade Co., Ltd.
106. Metaltek Group Co., Ltd.
107. Metaltek Metal Industry Co., Ltd.
108. Midea Air Conditioning Equipment Co., Ltd.
109. Midea International Trading Co., Ltd.
110. Midea International Training Co., Ltd.
111. Miland Luck Limited
112. Nanhai Textiles Import & Export Co., Ltd.
113. New Asia Aluminum & Stainless Steel Product Co., Ltd.
114. New Zhongya Aluminum Factory
115. Nidec Sankyo (Zhejang) Corporation
116. Nidec Sankyo Singapore Pte. Ltd.
117. Ningbo Coaster International Co., Ltd.
118. Ningbo Hi Tech Reliable Manufacturing Company
119. Ningbo Ivy Daily Commodity Co., Ltd.
120. Ningbo Yili Import and Export Co., Ltd.
121. North China Aluminum Co., Ltd.
122. North Fenghua Aluminum Ltd.
123. Northern States Metals
124. PanAsia Aluminum (China) Limited
125. Pengcheng Aluminum Enterprise Inc.
126. Permasteelisa Hong Kong Ltd.
127. Permasteelisa South China Factory
128. Pingguo Aluminum Company Limited
129. Pingguo Asia Aluminum Co., Ltd.
130. Popular Plastics Company Ltd.
131. Press Metal International Ltd.
132. Samuel, Son & Co., Ltd.
133. Sanchuan Aluminum Co., Ltd.
134. Shangdong Huasheng Pesticide Machinery Co.
135. Shangdong Nanshan Aluminum Co., Ltd.
136. Shanghai Automobile Air Conditioner Accessories Ltd.
137. Shanghai Canghai Aluminum Tube Packaging Co., Ltd
138. Shanghai Dongsheng Metal
139. Shanghai Shen Hang Imp & Exp Co., Ltd.
140. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.
141. Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.
142. Shenzhen Hudson Technology Development Co.
143. Shenzhen Jiuyuan Co., Ltd.
144. Sihui Shi Guo Yao Aluminum Co., Ltd.
145. Sincere Profit Limited
146. Skyline Exhibit Systems (Shanghai) Co. Ltd.
147. Southwest Aluminum (Group) Co., Ltd.
148. Suzhou JRP Import & Export Co., Ltd.
149. Suzhou New Hongji Precision Part Co.
150. Tai-Ao Aluminum (Taishan) Co. Ltd.
151. Taizhou Lifeng Manufacturing Co., Ltd.
152. Taizhou Lifeng Manufacturing Corporation, Ltd.
153. Taizhou United Imp. & Exp. Co., Ltd.
154. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
155. Tianjin Jinmao Import & Export Corp., Ltd.
156. Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd.
157. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.
158. Tiazhou Lifeng Manufacturing Corporation
159. Top-Wok Metal Co., Ltd.
160. Traffic Brick Network, LLC
161. Union Aluminum (SIP) Co.
162. Union Industry (Asia) Co., Ltd.
163. USA Worldwide Door Components (Pinghu) Co., Ltd.
164. Wenzhou Shengbo Decoration & Hardware
165. Whirlpool (Guangdong)
166. Whirlpool Canada L.P.
167. Whirlpool Microwave Products Development Ltd.
168. WTI Building Products, Ltd.
169. Xin Wei Aluminum Co.
170. Xin Wei Aluminum Company Limited
171. Xinya Aluminum & Stainless Steel Product Co., Ltd.
172. Yuyao Fanshun Import & Export Co., Ltd.
173. Yuyao Haoshen Import & Export
174. Zahoqing China Square Industry Limited
175. Zhaoqing Asia Aluminum Factory Company Ltd.
176. Zhaoqing China Square Industrial Ltd.
177. Zhaoqing China Square Industry Limited
178. Zhaoqing New Zhongya Aluminum Co., Ltd.
179. Zhejiang Anji Xinxiang Aluminum Co., Ltd.
180. Zhejiang Yongkang Listar Aluminum Industry Co., Ltd.
181. Zhejiang Zhengte Group Co., Ltd.
182. Zhenjiang Xinlong Group Co., Ltd.
183. Zhongshan Daya Hardware Co., Ltd.
184. Zhongshan Gold Mountain Aluminum Factory Ltd.
185. Zhongya Shaped Aluminum (HK) Holding Limited
186. Zhuhai Runxingtai Electrical Equipment Co., Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (the Department) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after June 2017, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity To Request a Review: Not later than the last day of June 2017,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period of review
Antidumping Duty Proceedings	
JAPAN: Carbon and Alloy Seamless Standard, Line, and Pressure Pipe A–588–850 (Over 4½ Inches)	6/1/16–5/31/17
JAPAN: Carbon and Alloy Seamless Standard, Line and Pressure Pipe A–588–851 (Under 4½ Inches)	6/1/16–5/31/17
MEXICO: Prestressed Concrete Steel Rail Tie Wire A–201–843	6/1/16–5/31/17
SPAIN: Chlorinated Isocyanurates A–469–814	6/1/16–5/31/17
TAIWAN: Helical Spring Lock Washers A–583–820	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Artist Canvas A–570–899	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Chlorinated Isocyanurates A–570–898	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Furfuryl Alcohol A–570–835	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: High Pressure Steel Cylinders A–570–977	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Polyester Staple Fiber A–570–905	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Prestressed Concrete Steel Rail Tie Wire A–570–990	6/1/16–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Prestressed Concrete Steel Wire Strand A–570–945	6/1/16–5/31/17

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
THE PEOPLE'S REPUBLIC OF CHINA: Silicon Metal A–570–806	6/1/15–5/31/17
THE PEOPLE'S REPUBLIC OF CHINA: Tapered Roller Bearings A–570–601	6/1/15–5/31/17
Countervailing Duty Proceedings	
THE PEOPLE'S REPUBLIC OF CHINA: High Pressure Steel Cylinders C–570–978	1/1/16–12/31/16
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

The Department no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[3] Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[4] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov.*[5] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of June 2017. If the Department does not receive, by the last day of June 2017, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013)

[4] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Dated: June 1, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11827 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2018.

	Period to be reviewed
Antidumping Duty Proceedings	
Indonesia: Certain Uncoated Paper [4] A–560–828	8/26/15–2/28/17
The People's Republic of China: Activated Carbon A–570–904	4/1/16–3/31/17
AmeriAsia Advanced Activated Carbon Products Co., Ltd.	
Anhui Handfull International Trading (Group) Co., Ltd.	
Anhui Hengyuan Trade Co. Ltd.	
Anyang Sino-Shon International Trading Co., Ltd.	
Baoding Activated Carbon Factory	
Beijing Broad Activated Carbon Co., Ltd.	
Beijing Embrace Technology Co., Ltd.	
Beijing Haijian Jiechang Environmental Protection Chemicals	
Beijing Hibridge Trading Co., Ltd.	
Beijing Pacific Activated Carbon Products Co., Ltd.	
Bengbu Jiutong Trade Co., Ltd.	
Bengbu First Commercial & Trading Co., Ltd.	
Bravo Speciality Chemicals Co., Ltd.	
Calgon Carbon (Tianjin) Co., Ltd.	
Carbon Activated Tianjin Co., Ltd.	
Changji Hongke Activated Carbon Co., Ltd.	
Chengde Jiayu Activated Carbon Factory	
China National Building Materials and Equipment Import and Export Corp.	
China National Nuclear General Company Ningxia Activated Carbon Factory	
China Nuclear Ningxia Activated Carbon Plant	
China SDIC International Trade Co., Ltd.	
Chongqing Feiyang Active Carbon Manufacture	
Da Neng Zheng Da Activated Carbon Co., Ltd.	
Datong Carbon Corporation	
Datong Changtai Activated Carbon Co., Ltd.	
Datong City Zuoyun County Activated Carbon Co., Ltd.	
Datong Fenghua Activated Carbon	
Datong Forward Activated Carbon Co., Ltd.	
Datong Fuping Activated Carbon Co. Ltd.	
Datong Guanghua Activated Co., Ltd.	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Datong Hongtai Activated Carbon Co., Ltd.	
Datong Huanqing Activated Carbon Co., Ltd.	
Datong Huaxin Activated Carbon	
Datong Huibao Activated Carbon Co., Ltd.	
Datong Huibao Active Carbon Co., Ltd.	
Datong Huiyuan Cooperative Activated Carbon Plant	
Datong Juqiang Activated Carbon Co., Ltd.	
Datong Kaneng Carbon Co. Ltd.	
Datong Locomotive Coal & Chemicals Co., Ltd.	
Datong Municipal Yunguang Activated Carbon Co., Ltd.	
Datong Tianzhao Activated Carbon Co., Ltd.	
DaTong Tri-Star & Power Carbon Plant	
Datong Weidu Activated Carbon Co., Ltd.	
Datong Xuanyang Activated Carbon Co., Ltd.	
Datong Zuoyun Biyun Activated Carbon Co., Ltd.	
Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.	
Dezhou Jiayu Activated Carbon Factory	
Dongguan Baofu Activated Carbon	
Dongguan SYS Hitek Co., Ltd.	
Dushanzi Chemical Factory	
Fu Yuan Activated Carbon Co., Ltd.	
Fujian Active Carbon Industrial Co., Ltd.	
Fujian Jianyang Carbon Plant	
Fujian Nanping Yuanli Activated Carbon Co., Ltd.	
Fujian Xinsen Carbon Co., Ltd	
Fujian Yuanli Active Carbon Co., Ltd.	
Fujian Yuanli Active Carbon Industrial Co., Ltd.	
Fujian Zhixing Activated Carbon Co., Ltd.	
Fuzhou Taking Chemical	
Fuzhou Yihuan Carbon	
Great Bright Industrial	
Hangzhou Hengxing Activated Carbon	
Hangzhou Hengxing Activated Carbon Co., Ltd.	
Hangzhou Linan Tianbo Material (HSLATB)	
Hangzhou Nature Technology	
Hangzhou Waterland Environmental Technologies Co., Ltd.	
Hebei Foreign Trade and Advertising Corporation	
Hebei Luna Trading Co., Ltd.	
Hebei Shenglun Import & Export Group Company	
Hegongye Ninxia Activated Carbon Factory	
Heilongjiang Provincial Hechang Import & Export Co., Ltd.	
Hongke Activated Carbon Co., Ltd.	
Huaibei Environment Protection Material Plant	
Huairen Huanyu Purification Material Co., Ltd.	
Huairen Jinbei Chemical Co., Ltd.	
Huaiyushan Activated Carbon Group	
Huatai Activated Carbon	
Huzhou Zhonglin Activated Carbon	
Inner Mongolia Taixi Coal Chemical Industry Limited Company	
Itigi Corp. Ltd.	
J&D Activated Carbon Filter Co. Ltd.	
Jacobi Carbons AB	
Jiangle County Xinhua Activated Carbon Co., Ltd.	
Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.	
Jiangxi Hanson Import Export Co.	
Jiangxi Huaiyushan Activated Carbon	
Jiangxi Huaiyushan Activated Carbon Group Co.	
Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.	
Jiangxi Jinma Carbon	
Jiangxi Yuanli Huaiyushan Active Carbon Co., Ltd.	
Jianou Zhixing Activated Carbon	
Jiaocheng Xinxin Purification Material Co., Ltd.	
Jilin Bright Future Chemicals Company, Ltd.	
Jilin Province Bright Future Industry and Commerce Co., Ltd.	
Jing Mao (Dongguan) Activated Carbon Co., Ltd.	
Kaihua Xingda Chemical Co., Ltd.	
Kemflo (Nanjing) Environmental Tech	
Keyun Shipping (Tianjin) Agency Co., Ltd.	
Kunshan Actview Carbon Technology Co., Ltd.	
Langfang Winfield Filtration Co.	
Link Shipping Limited	
Longyan Wanan Activated Carbon	
Meadwestvaco (China) Holding Co., Ltd.	

	Period to be reviewed
Mindong Lianyi Group	
Nanjing Mulinsen Charcoal	
Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.	
Ningxia Baiyun Carbon Co., Ltd.	
Ningxia Baota Activated Carbon Co., Ltd.	
Ningxia Baota Active Carbon Plant	
Ningxia Guanghua A/C Co., Ltd.	
Ningxia Blue-White-Black Activated Carbon (BWB)	
Ningxia Fengyuan Activated Carbon Co., Ltd.	
Ningxia Guanghua Activated Carbon Co., Ltd.	
Ningxia Guanghua Chemical Activated Carbon Co., Ltd.	
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	
Ningxia Haoqing Activated Carbon Co., Ltd.	
Ningxia Henghui Activated Carbon	
Ningxia Honghua Carbon Industrial Corporation	
Ningxia Huahui Activated Carbon Co., Ltd.	
Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.	
Ningxia Jirui Activated Carbon	
Ningxia Lingzhou Foreign Trade Co., Ltd.	
Ningxia Luyuangheng Activated Carbon Co., Ltd.	
Ningxia Mineral & Chemical Limited	
Ningxia Pingluo County Yaofu Activated Carbon Plant	
Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Ningxia Pingluo Yaofu Activated Carbon Factory	
Ningxia Taixi Activated Carbon	
Ningxia Tianfu Activated Carbon Co., Ltd.	
Ningxia Tongfu Coking Co, Ltd.	
Ningxia Weining Active Carbon Co., Ltd.	
Ningxia Xingsheng Coal and Active Carbon Co., Ltd.	
Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.	
Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Ningxia Yirong Alloy Iron Co., Ltd.	
Ningxia Zhengyuan Activated	
Nuclear Ningxia Activated Carbon Co., Ltd.	
OEC Logistic Qingdao Co., Ltd.	
OEC Logistics Co., Ltd. (Tianjin)	
Panshan Import and Export Corporation	
Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Pingluo Yu Yang Activated Carbon Co., Ltd.	
Shanghai Activated Carbon Co., Ltd.	
Shanghai Astronautical Science Technology Development Corporation	
Shanghai Coking and Chemical Corporation	
Shanghai Goldenbridge International	
Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu)	
Shanghai Jinhu Activated Carbon (Xingan Shenxin and Jiangle Xinhua)	
Shanghai Light Industry and Textile Import & Export Co., Ltd.	
Shanghai Mebao Activated Carbon	
Shanghai Xingchang Activated Carbon	
Shanxi Blue Sky Purification Material Co., Ltd.	
Shanxi Carbon Industry Co., Ltd.	
Shanxi Dapu International Co., Ltd.	
Shanxi Dapu International Trade Co., Ltd.	
Shanxi DMD Corporation	
Shanxi Industry Technology Trading Co., Ltd.	
Shanxi Newtime Co., Ltd.	
Shanxi Qixian Foreign Trade Corporation	
Shanxi Qixian Hongkai Active Carbon Goods	
Shanxi Sincere Industrial Co., Ltd.	
Shanxi Supply and Marketing Cooperative	
Shanxi Tianli Ruihai Enterprise Co.	
Shanxi Tianxi Purification Filter Co., Ltd.	
Shanxi U Rely International Trade	
Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.	
Shanxi Xinhua Activated Carbon Co., Ltd.	
Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical Factory)	
Shanxi Xinhua Protective Equipment	
Shanxi Xinshidai Import Export Co., Ltd.	
Shanxi Xuanzhong Chemical Industry Co., Ltd.	
Shanxi Zuoyun Yunpeng Coal Chemistry	
Shenzhen Sihaiweilong Technology Co.	
Shijiazhuang Xinshuang Trade Co., Ltd.	
Sincere Carbon Industrial Co. Ltd.	
Sinoacarbon International Trading Co, Ltd.	

	Period to be reviewed
Taining Jinhu Carbon	
Taiyuan Hengxinda Trade Co., Ltd.	
Tancarb Activated Carbon Co., Ltd.	
Tangshan Solid Carbon Co., Ltd.	
Tianchang (Tianjin) Activated Carbon	
Tianjin Century Promote International Trade Co., Ltd.	
Tianjin Channel Filters Co., Ltd.	
Tianjin Jacobi International Trading Co. Ltd.	
Tianjin Maijin Industries Co., Ltd.	
Tonghua Bright Future Activated Carbon Plant	
Tonghua Xinpeng Activated Carbon Factory	
Top One International Trading Co., Ltd.	
Triple Eagle Container Line	
Uniclear New-Material Co., Ltd.	
United Manufacturing International (Beijing) Ltd.	
Valqua Seal Products (Shanghai) Co.	
VitaPac (HK) Industrial Ltd.	
Wellink Chemical Industry	
Xi Li Activated Carbon Co., Ltd.	
Xi'an Shuntong International Trade & Industrials Co., Ltd.	
Xiamen All Carbon Corporation	
Xingan County Shenxin Activated Carbon Factory	
Xinhua Chemical Company Ltd.	
Xuanzhong Chemical Industry	
Yangyuan Hengchang Active Carbon	
Yicheng Logistics	
Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Zhejiang Quizhou Zhongsen Carbon	
Zhejiang Topc Chemical Industry Co.	
Zhejiang Xingda Activated Carbon Co., Ltd.	
Zhejiang Yun He Tang Co., Ltd.	
Zhuxi Activated Carbon	
Zuoyun Bright Future Activated Carbon Plant	
Socialist Republic Of Vietman: Certain Frozen Warmwater Shrimp [5] A–552–802	2/1/16–1/31/17
The People's Republic of China: Certain Steel Threaded Rod A–570–932	4/1/16–3/31/17
Aerospace Precision Corp. (Shanghai) Industry Co., Ltd.	
Aihua Holding Group Co. Ltd.	
Autocraft Industry (Shanghai) Ltd.	
Autocraft Industry Ltd.	
Billion Land Ltd.	
Billion Technology Ltd.	
Bolt Mfg. Trade Ltd.	
Billiongold Hardware Co. Ltd.	
Brighton Best International (Taiwan) Inc.	
Brother Holding Group Co. Ltd.	
C and H International Corporation	
Catic Fujian Co., Ltd.	
Cci International Ltd.	
Century Distribution Systems Inc.	
Certified Products International Inc.	
Changshu City Standard Parts Factory	
China Friendly Nation Hardware Technology Limited	
D.M.D. International Co. Ltd.	
Da Cheng Hardware Products Co., Ltd.	
Dalian Xingxin Steel Fabrication	
Dongxiang Accuracy Hardware Co., Ltd.	
Ec International (Nantong) Co., Ltd.	
Fastco (Shanghai) Trading Co., Ltd.	
Fasten International Co., Ltd.	
Fastenal Canada Ltd.	
Fastwell Industry Co. Ltd.	
Fook Shing Bolts & Nuts Co. Ltd.	
Fuda Xiongzhen Machinery Co., Ltd.	
Fuller Shanghai Co. Ltd.	
Gem-Year Industrial Co. Ltd.	
Guangdong Honjinn Metal & Plastic Co., Ltd.	
Hainan Zhongyan United Development Co.	
Haining Hifasters Industrial Co.	
Haining Shende Imp. & Exp. Co. Ltd.	
Haining Zhongda Fastener Co., Ltd.	
Haiyan Ai&Lun Standard Fastener Co.	
Haiyan Chaoqiang Standard Fastener	
Haiyan Dayu Fasteners Co., Ltd.	

	Period to be reviewed
Haiyan Evergreen Standard Parts Co. Ltd. Haiyan Fuxin High Strength Fastener Haiyan Hatehui Machinery Hardware Haiyan Hurras Import & Export Co. Ltd. Haiyan Jianhe Hardware Co. Ltd. Haiyan Julong Standard Part Co. Ltd. Haiyan Shangchen Imp. & Exp. Co. Haiyan Yuxing Nuts Co. Ltd. Hangzhou Everbright Imp. & Exp. Co. Ltd. Hangzhou Grand Imp. & Exp. Co., Ltd. Hangzhou Great Imp. & Exp. Co. Ltd. Hangzhou Lizhan Hardware Co. Ltd. Hangzhou Prostar Enterprises Ltd. Hangzhou Tongwang Machinery Co., Ltd. Hilti (China) Ltd. Hong Kong Sunrise Fasteners Co. Ltd. Hong Kong Yichen Co. Ltd. Honoble Precision (China) Mfg. Intech Industries Shanghai Co., Ltd. Jiangsu Innovo Precision Machinery Jiangsu Jinhuan Fastener Co., Ltd. Jiangsu Zhongweiyu Communication Equipment Co. Ltd. Jiashan Steelfit Trading Co. Ltd. Jiashan Zhongsheng Metal Products Co., Ltd. Jiaxing Brother Standard Part Co., Ltd.; IFI & Morgan Ltd.; and RMB Fasteners Ltd. Jiaxing Allywin Mfg. Co., Ltd. Jiaxing Chinafar Standard Jiaxing Sini Fastener Co., Ltd. Jiaxing Jinhow Import & Export Co., Ltd. Jiaxing Xinyue Standard Part Co. Ltd. Jiaxing Yaoliang Import & Export Co. Ltd. Jinan Banghe Industry & Trade Co., Ltd. Kinfast Hardware (Shenzhen) Ltd. King Socket Screw Company Ltd. L&W Fasteners Company Macropower Industrial Inc. Mai Seng International Trading Co., Ltd. MB Services Company Midas Union Co., Ltd. Nanjing Prosper Import & Export Corporation Ltd. Nantong Runyou Metal Products New Pole Power System Co. Ltd. Ningbo Abc Fasteners Co., Ltd. Ningbiao Bolts & Nuts Manufacturing Co. Ningbo Beilun Milfast Metalworks Co. Ltd. Ningbo Beilun Pingxin Hardware Co., Ltd. Ningbo Dexin Fastener Co. Ltd. Ningbo Dongxin High-Strength Nut Co., Ltd. Ningbo Exact Fasteners Co., Ltd. Ningbo Fastener Factory Ningbo Fengya Imp. and Exp. Co. Ltd. Ningbo Fourway Co., Ltd. Ningbo Haishu Holy Hardware Import and Export Co. Ltd. Ningbo Haishu Wit Import & Export Co. Ltd. Ningbo Haishu Yixie Import & Export Co. Ltd. Ningbo Jinding Fastening Piece Co., Ltd. Ningbo MPF Manufacturing Co. Ltd. Ningbo Panxiang Imp. & Exp. Co. Ltd. Ningbo Seduno Imp. Exp. Co., Ltd. Ningbo Qianjiu Instrument Case Factory Ningbo Yili Import & Export Co., Ltd. Ningbo Yinzhou Dongxiang Accuracy Hardware Co., Ltd. Ningbo Yinzhou Foreign Trade Co., Ltd. Ningbo Yinzhou Woafan Industry & Trade Co., Ltd. Ningbo Zhenhai Beisuda Equipment Co. Ningbo Zhenhai Jinhuan Fasteners Ningbo Zhenghai Yongding Fastener Co., Ltd. Ningbo Zhenhai Dingli Fastener Screw Co., Ltd. Ningbo Zhongjiang High Strength Bolts Co. Ltd. Ningbo Zhongjiang Petroleum Pipes & Machinery Co. Ltd. Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd. Orient Rider Corporation Ltd. Pol Shin Fastener (Zhejiang) Co.	

	Period to be reviewed
Prosper Business and Industry Co., Ltd.	
Qingdao Free Trade Zone Health Intl.	
Qingdao Top Steel Industrial Co. Ltd.	
Sampulse Industrial Co., Ltd.	
Shaanxi Succeed Trading Co., Ltd.	
Shanghai Autocraft Co., Ltd.	
Shanghai Beitra Fasteners Co., Ltd.	
Shanghai E-Heng Imp. & Exp. Co. Ltd.	
Shanghai East Best Foreign Trade Co.	
Shanghai East Best International Business Development Co., Ltd.	
Shanghai Fortune International Co. Ltd.	
Shanghai Furen International Trading	
Shanghai Hunan Foreign Economic Co., Ltd.	
Shanghai Jiabao Trade Development Co. Ltd.	
Shanghai Nanshi Foreign Economic Co.	
Shanghai Overseas International Trading Co. Ltd.	
Shanghai Prime Machinery Co. Ltd.	
Shanghai Printing & Dyeing and Knitting Mill	
Shanghai Printing & Packaging Machinery Corp	
Shanghai Recky International Trading Co., Ltd.	
Shanghai Sinotex United Corp. Ltd.	
Shanghai Strong Hardware Co. Li	
Shanghai Wisechain Fasteners Ltd.	
Shenzhen Fenda Technology Co., Ltd.	
Shenzhen Haozhenghao Technology Co.	
Shijianzhuang Huitongxiang Li Trade	
Soyoung Industrial Co., Ltd.	
SRC Metal (Shanghai) Co., Ltd.	
Suntec Industries Co., Ltd.	
Suzhou Henry International Trading Co., Ltd.	
T and C Fastener Co. Ltd.	
T and L Industry Co. Ltd.	
Taizhou Maixing Machinery Co.	
Telsto Development Co., Ltd.	
The Hoffman Group International	
Tianjin Port Free Trade Zone	
Tianjin Star International Trade Co., Ltd.	
Tong Ming Entreprise Co., Ltd.	
Tong Win International Co., Ltd.	
Tri Steel Co., Ltd.	
Wisechain Trading Limited	
Wuxi Metec Metal Co. Ltd.	
Xiamen Hua Min Imp. and Exp. Ltd.	
Xiamen Rongxinda Industry Co., Ltd.	
Xiamen Yuhui Import & Export Co., Ltd.	
Yogendra International	
Yuyao Hualun Imp. & Exp. Co., Ltd.	
Zhangjiagang Ever Faith Industry Co.	
Zhejiang Heirrmu Mechanical and Electrical Equipment Manufacturing Co Ltd.	
Zhejiang Heiter Industries Co., Ltd.	
Zhejiang Heiter Mfg & Trade Co. Ltd.	
Zhejiang Jin Zeen Fasteners Co. Ltd.	
Zhejiang Junyue Standard Part Co., Ltd.	
Zhejiang Laibao Precision Technology Co. Ltd.	
Zhejiang Metals & Minerals Imp & Exp Co. Ltd.	
Zhejiang Morgan Brother Technology Co. Ltd.	
Zhejiang New Century Imp & Exp Co. Ltd.	
Zhejiang New Oriental Fastener Co., Ltd.	
Zhejiang Zhenglian Industry Development Co., Ltd.	
Zhongsheng Metal Co., Ltd.	
Zhoushan Zhengyuan Standard Parts Co., Ltd.	
The People's Republic of China: Drawn Stainless Steel Sinks A–570–983	4/1/16–3/31/17
B&R Industries Limited	
Elkay (China) Kitchen Solutions, Co., Ltd.	
Feidong Import and Export Co., Ltd.	
Foshan Shunde MingHao Kitchen Utensils Co., Ltd.	
Foshan Zhaoshun Trade Co., Ltd.	
Franke Asia Sourcing Ltd.	
Grand Hill Work Company	
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Guangdong G-Top Import & Export Co., Ltd.	
Guangdong New Shichu Import & Export Company Limited	
Guangdong Yingao Kitchen Utensils Co., Ltd.	

	Period to be reviewed
Hangzhou Heng's Industries Co., Ltd.	
Hubei Foshan Success Imp & Exp Co. Ltd.	
J&C Industries Enterprise Limited	
Jiangmen Hongmao Trading Co., Ltd.	
Jiangmen New Star Hi-Tech Enterprise Ltd.	
Jiangmen Pioneer Import & Export Co., Ltd.	
Jiangmen Xinhe Stainless Steel Products Co., Ltd.	
Jiangxi Zoje Kitchen & Bath Industry Co., Ltd.	
KaiPing Dawn Plumbing Products, Inc.	
Ningbo Afa Kitchen and Bath Co., Ltd.	
Ningbo Oulin Kitchen Utensils Co., Ltd.	
Primy Cooperation Limited	
Shenzhen Kehuaxing Industrial Ltd.	
Shunde Foodstuffs Import & Export Company Limited of Guangdong	
Shunde Native Produce Import and Export Co., Ltd. of Guangdong	
Yuyao Afa Kitchenware Co., Ltd.	
Zhongshan Newecan Enterprise Development Corporation	
Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong	
Zhongshan Superte Kitchenware Co., Ltd./Zhongshan Superte Kitchenware Co., Ltd. invoiced as Foshan Zhaoshun Trade Co., Ltd	
Zhuhai Kohler Kitchen & Bathroom Products Co., Ltd.	
The People's Republic of China: Magnesium Metal A–570–896	4/1/16–3/31/17
Tianjin Magnesium International Co., Ltd.	
Tianjin Magnesium Metal Co., Ltd.	
The People's Republic of China: Non-Malleable Cast Iron Pipe Fittings A–570–875	4/1/16–3/31/17
Dalian Reliable Industrial Co., Ltd.	
Tianjin Port Free Trade Zone Star Pipe International Trade Co., Ltd.	
Countervailing Duty Proceedings	
Indonesia: Certain Uncoated Paper[6] C–560–829	6/29/15–12/31/16
The People's Republic of China: Drawn Stainless Steel Sinks C–570–984	1/1/16–12/31/16
Zhongshan Superte Kitchenware Co., Ltd.	

Suspension Agreements

None.

[4] On May 9, 2017, the Department inadvertently initiated the review for only PT. Indah Kiat Pulp and Paper Tbk (IK) and PT. Pabrik Kertas Tjiwi Kimia Tbk (TK) (collectively APP) in the initiation notice that published on May 9, 2017 (82 FR 21513). However, in the final determination of the underlying investigation, we found that IK, TK, and their affiliate Pindo Deli Pulp and Paper Mills (PD) comprised a single entity. *See Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value,* 81 FR 3101, 3102 (January 20, 2016). As a result, we now correct the initiation of this review to include PD.

[5] On April 10, 2017, the Department initiated its administrative review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188 (April 10, 2017). The Department inadvertently omitted a footnote with respect to the initiation of one exporter. We have provided the footnote in this initiation notice:

Shrimp produced and exported by Minh Phu Seafood Corporation were excluded from the Vietnam AD order effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review with respect to Minh Phu Seafood Corporation only for shrimp produced in Vietnam where Minh Phu Seafood Corporation acted as either the manufacturer or exporter (but not both).

[6] On May 9, 2017, the Department inadvertently initiated the review for only PT. Indah Kiat Pulp and Paper Tbk (IK) and PT. Pabrik Kertas Tjiwi Kimia Tbk (TK) (collectively APP) in the initiation notice that published on May 9, 2017 (82 FR 21513). However, in the final determination of the underlying investigation, we found that IK, TK, and their affiliate Pindo Deli Pulp and Paper Mills (PD) comprised a single entity. *See Certain Uncoated Paper From Indonesia: Final Affirmative Countervailing Duty Determination,* 81 FR 3104 (January 20, 2016). As a result, we now correct the initiation of this review to include PD.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in the Department's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

The Department's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires;

(ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[8] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: June 1, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11828 Filed 6–6–17; 8:45 am]

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[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–805]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe (small diameter seamless pipe) from Romania. The review covers one producer/exporter of the subject merchandise, S.C. Silcotub S.A. (Silicotub). The period of review (POR) is August 1, 2015, through July 31, 2016. We preliminarily find that sales of subject merchandise have not been made at prices below normal value (NV). Interested parties are invited to comment on these preliminary results.

DATES: Effective June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Denisa Ursu, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–2285, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the *Order*[1] is small diameter seamless pipe. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.10.10.20, 7304.10.50.20, 7304.19.10.20, 7304.19.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25. The HTSUS subheadings are provided for convenience and customs purposes only; the written

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania,* 65 FR 48963 (August 10, 2000) (the *Order*).

product description of the scope of the *Order* is dispositive.[2]

Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price (CEP) is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and it is available to all parties in the Central Records Unit, room B0824 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as the Appendix to this notice.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists:

Producer/Exporter	Weighted-average dumping margin (percent)
S.C. Silcotub S.A.	0.00

Disclosure and Public Comment

The Department intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[3] Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5] Case and rebuttal briefs should be filed using ACCESS.[6]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[7] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[8]

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[9] Silcotub reported the names of the importers of record and the entered value for all of its sales to the United States during the POR. If Silcotub's weighted-average dumping margins are not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1), and we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with the Department's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Silcotub for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate.[10]

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of small diameter seamless pipe from Romania entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Silcotub will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.06 percent, the all-others rate established in the *Order.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR

[2] *See* Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum), for a complete description of the scope of the *Order.*

[3] *See* 19 CFR 351.224(b).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *See* 19 CFR 351.303.

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

[8] *Id.*

[9] *See* 19 CFR 351.212(b).

[10] For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: June 1, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
   i. Normal Value Comparisons
   ii. Product Comparisons
   iii. Date of Sale
   iv. Constructed Export Price
   v. Normal Value
   vi. Verification
   vii. Currency Conversion
5. Recommendation

[FR Doc. 2017–11825 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

DATES: Effective June 7, 2017.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention determinations made between April 1, 2016, and June 30, 2016, inclusive. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on March 15, 2017.[2] This current notice covers all scope rulings and anticircumvention determinations made by Enforcement and Compliance between April 1, 2016, and June 30, 2016, inclusive. Subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between April 1, 2016 and June 30, 2016

People's Republic of China

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Bottom Line Traction, Inc.; Portal sets, which are used as entryways for retail spaces, are outside the scope of the orders because, at the time of importation, they constitute finished goods kits that contain non-extruded aluminum parts beyond mere fasteners, along with other parts necessary to assemble the finished downstream; April 15, 2016.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Lockfast, Inc.; Banner stand kits are outside the scope of the orders because they constitute a finished goods kit that includes non-extruded aluminum components beyond mere fasteners, along with other parts necessary to assemble the finished banner stand upon importation; June 16, 2016.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Ancra International LLC; Lift-a-Deck II foot assembly, a component of an adjustable system of tracks, beams and other components designed to maximize the usage of cargo space in trucks and trailers, is outside the scope of the orders because it meets the requirement of subassemblies, which are imported as finished merchandise, ready for installation into a downstream product; June 20, 2016.

A–570–018 and C–570–019: Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China

Requestor: Seville Classics, Inc.; Outside the scope of the orders based on the plain language of the scope because none of the 21 shoe and utility rack frames lock together for the structural integrity of the unit without the inclusion of the decking; June 24, 2016.

A–570–018 and C–570–019: Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China

Requestor: Illinois Tool Works Inc.; Outside the scope of the orders based on the plain language of the scope because two of the bicycle racks require bolts for assembly and the horizontal support member for the third bicycle rack does not include the capacity for a horizontal storage surface; June 30, 2016.

A–570–016 and C–570–017: Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China

Requestor: American Omni Trading Company LLC and Unicorn Tire Corporation; racing tires that contain a ''DOT'' symbol but are not of a size listed in the passenger vehicle or light truck section of the Tire and Rim Association Year Book are outside the scope of the antidumping and countervailing duty orders on certain passenger vehicle and light truck tires from the People's Republic of China; May 27, 2016.

A–570–979 and C–570–980: Crystalline Silicon Photovoltaic Cells, Whether or not Assembled Into Modules From the People's Republic of China

Requestor: Goal Zero, LLC; the Torch 250 Flashlight is covered by the scope of the antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China because one of its functions is to provide power for other electronic devices and thus it does not qualify for the exclusion identified in the scope of the orders; May 13, 2016.

A–570–970 and C–570–971: Multilayered Wood Flooring From the People's Republic of China

Requestor: Dunhua Shengda Wood Industry Co., Ltd. (Dunhua Shengda); Dunhua Shengda's two-layer wood flooring products are not within the scope of the *Orders* on multilayered wood flooring from the PRC because they lack the expressed requirement of two or more layers or plies of wood veneer in combination with a core; April 25, 2016.

A–570–970 and C–570–971: Multilayered Wood Flooring From the People's Republic of China

Requestor: Zhejiang Biyork Wood Co., Ltd. (Biyork Wood); Biyork Wood's two-layer constructed wood flooring panels are not within the scope of the *Orders* on multilayered wood flooring from the PRC because they lack the expressed requirement of two or more layers or plies of wood veneer in combination with a core; May 23, 2016.

A–570–970 and C–570–971: Multilayered Wood Flooring From the People's Republic of China

Requestor: Jiangsu Beier Decoration Material Co. Ltd. (Beier Decoration); Beier Decoration's three-layer construction wood flooring panel is not within the scope of the *Orders* on multilayered wood flooring from the PRC because they lack the expressed requirement of two or more layers or plies of wood veneer in combination with a core; June 21, 2016.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 82 FR 13794 (March 15, 2017).

Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, 1401 Constitution Avenue NW., APO/Dockets Unit, Room 18022, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: June 1, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11829 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF455

Marine Mammals; File No. 20523

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the National Museum of Natural History [Kirk Johnson, Ph.D., Responsible Party] P.O. Box 37012, Washington, DC 20013, has applied in due form for a permit to receive, import, and export marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before July 7, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20523 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 20523 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive, import, and export biological samples from up to 5,000 cetaceans and 1,000 pinnipeds (excluding walrus) annually for scientific research, curation, and education. Receipt, import, and export is requested worldwide. Sources of samples may include marine mammal strandings in foreign countries, foreign and domestic subsistence harvests, captive animals, other authorized researchers or curated collections, and marine mammals that died incidental to commercial fishing operations in the U.S. and foreign countries, where such take is legal. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 1, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–11710 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF453

Marine Mammals; File No. 21114

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that The Whale Museum (Responsible Party: Jenny Atkinson), P.O. Box 945, Friday Harbor, WA 98250 has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before July 7, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21114 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing

the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to take cetaceans during vessel surveys for the Soundwatch Boater Education program in the in-land waters of Washington to evaluate vessel regulations and guidelines, characterize vessel trends, and prevent vessel disturbances to marine mammals. The primary target species are Southern Resident and transient killer whales (*Orcinus orca*), but additional cetaceans may include fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), and minke (*B. acutorostrata*) whales, Dall's (*Phocoenoides dalli*) and harbor (*Phocoena phocoena*) porpoises, and Pacific white-sided dolphins (*Lagenorhynchus obliquidens*). Research activities would include photography, video recording, photo-identification, behavioral observations, and incidental harassment. Take numbers would include up to 100 whales of each killer whale stock, and up to 20 individuals each of all other cetacean species, annually. Five species of non-listed pinnipeds may be harassed incidental to research activities. Please see the take table for complete list of take numbers by species. The permit would be valid for five years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 1, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–11709 Filed 6–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Closed Teleconference Meeting

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Notice of a closed teleconference meeting.

SUMMARY: This notice sets forth the agenda for a closed teleconference meeting of the National Assessment Governing Board (hereafter referred to as Governing Board) to review and take action on nominations for Governing Board vacancies, in accordance with the personnel appointment actions stipulated under § 302(d) of Public Law 107–279.

Due to the need to adhere to the Governing Board's established nominations cycle for Governing Board vacancies, this notice is being posted less than 15 days prior to the meeting.

DATES: Thursday, June 22, 2017, from 3:00 p.m. to 3:45 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer/Designated Federal Official of the Governing Board, 800 North Capitol Street NW., Suite 825, Washington, DC 20002, telephone: (202) 357–6938, fax: (202) 357–6945.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: The Governing Board is established under the National Assessment of Educational Progress Authorization Act, Title III of Public Law 107–279. Information on the Governing Board and its work can be found at *www.nagb.gov.*

The Governing Board is established to formulate policy for the National Assessment of Educational Progress (NAEP). The Governing Board's congressionally mandated responsibilities include developing appropriate student achievement levels for each grade and subject tested. Based on recommendations from policymakers, educators, and members of the general public, the Governing Board sets specific achievement levels for each subject area and grade assessed on The Nation's Report Card. Achievement levels are performance standards that show what students should know and be able to do. Results are reported as percentages of students performing at or above the Basic and Proficient levels, and at the Advanced level. Additional information on the Governing Board and memberships terms can be found at *https://www.nagb.gov.*

Notice of the meeting is required under § 10(a)(2) of the Federal Advisory Committee Act (FACA). The discussion during the teleconference pertains solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of § 552b(c) of Title 5 of the United States Code.

The National Assessment Governing Board will participate in a teleconference meeting on Thursday, June 22, 2017 from 3:00 p.m.–3:45 p.m. EST. The purpose of the meeting is to review the Nomination Committee's recommendations for the final slate of candidates for the 2017 Governing Board vacancies for terms that begin on October 1, 2017. Following discussion, the Governing Board will take action on the final slate of candidates to be submitted to the Secretary of Education.

Members of the public will have an opportunity to provide written feedback on the closed teleconference meeting in advance of the call at *nagb@ed.gov,* with the email subject header titled ''Teleconference Feedback on Nominations.'' Comments must be received no later than 12:00 p.m. EST on June 12, 2017.

Dated: June 1, 2017.

William J. Bushaw,

Executive Director.

[FR Doc. 2017–11726 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children With, and at Risk for, Developmental Delays or Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children With, and at Risk for, Developmental Delays or Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.326B.

DATES:

Applications Available: June 7, 2017.

Deadline for Transmittal of Applications: July 24, 2017.

Deadline for Intergovernmental Review: September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Jennifer Tschantz, U.S. Department of Education, 400 Maryland Avenue SW., Room 5143, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–6282.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk for, Developmental Delays or Disabilities.

Background

Young children's social, emotional, and behavioral development has long been recognized as critical for school readiness. Children who are socially competent and exhibit positive behavior during the early childhood years are more successful in school and in life (Jones, Greenberg, & Crowley, 2015). Despite this, early childhood programs that serve infants, toddlers, and preschool children (young children) with, and at risk for, developmental delays or disabilities have struggled to systematically promote positive social and emotional development and reduce challenging behaviors.

Early childhood personnel are often not trained to adequately support young children's social, emotional, and behavioral development (Buettner, Hur, Jeon, & Andrews, 2016). As a result, early childhood personnel frequently report that coping with challenging behavior is their most pressing training need and presents a barrier to including young children with disabilities into programs with their typically developing peers (Hemmeter, Corso, & Cheatham, 2006; Snell et al., 2012). In fact, expulsion rates in preschool are higher than in K–12, and preschool expulsion and suspension rates include stark racial and gender disparities, with young boys of color, including those with disabilities, being suspended and expelled much more frequently than other children (Gilliam, 2005; U.S. Department of Education, 2014; U.S. Department of Education, 2016). In addition, young children with disabilities and their families face significant barriers to accessing inclusive high-quality early childhood programs, despite the research base on the benefits of and the legal foundation for inclusion.[1]

Early childhood multi-tiered systems of support (MTSS)[2] focused on social, emotional, and behavioral development implemented in center-based early childhood settings have shown promise in increasing children's social competence and reducing challenging behaviors. Additionally, 30 States identified in their State Systemic Improvement Plans (SSIPs)[3] improving the social and emotional outcomes of infants and toddlers with disabilities under Part C of the IDEA. However, State and local early childhood programs are not typically organized in a manner that systematically supports early childhood personnel in implementing these interventions. State and local programs need guidance and resources on how to implement the framework, especially in home-based and community settings with young children with, and at risk for, developmental delays or disabilities.

To support young children's social, emotional, and behavioral development and reduce their challenging behaviors, this priority will fund a cooperative agreement to establish and operate a national Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk for, Developmental Delays or Disabilities. The center will develop an early childhood MTSS framework, and then support States, early childhood programs, and personnel in implementing this framework focused on improving social, emotional, and behavioral development.

Priority

The purpose of this priority is to fund a cooperative agreement to establish and operate a Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk[4] for,

[1] Section 632(4)(G) of the IDEA Part C requires that, to the maximum extent appropriate, factoring in each child's routines, needs, and outcomes, early intervention services be made available to all eligible infants and toddlers with disabilities in ''natural environments,'' including the home, and community settings in which children without disabilities participate. Section 619 of the IDEA Part B requires that to the maximum extent appropriate, all children with disabilities, including preschool children with disabilities, must be educated in the least restrictive environment, and removal from the regular education environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

[2] An early childhood MTSS framework (also referred to as response to intervention, or RTI) focused on social, emotional, and behavioral development is a framework used to organize effective practices, interventions, and implementation supports supported by evidence. MTSS strategies are typically organized into three progressively intensive tiers, with specific interventions being executed across primary, secondary and tertiary tiers. The first tier typically includes practices to promote nurturing and responsive caregiving relationships with the child and high-quality supportive environments. The second tier includes explicit instruction in social skills and emotional regulation for children who require more systematic and focused instruction. The third tier is for children with persistent challenging behaviors that are not responsive to interventions at other tiers and involves implementing a plan of intensive, individualized interventions. MTSS intervention strategies should not delay or deny the evaluation of students suspected of having a disability or developmental delay (see OSEP's April 2016 memorandum on the use of RTI in preschool available online: *https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/oseprtipreschoolmemo4-29-16.pdf*).

[3] The Office of Special Education Programs (OSEP) has redesigned its accountability framework which is designated as Results Driven Accountability (RDA). As part of RDA, OSEP required States to develop, and report in the Annual Performance Report (APR), the State Systemic Improvement Plan (SSIP). The SSIP is a comprehensive, multi-year plan that is focused on improving a State-identified measureable result (SIMR). Thirty State IDEA Part C programs have developed SSIPs that have SIMRs specifically focused on improving the social and emotional outcomes of infants and toddlers with disabilities.

[4] Section 663(b)(1) of the IDEA gives the Department the authority to include a focus on ''at-risk'' children in this priority: ''Funds received under this section shall be used to support activities to improve services provided under this title, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through . . . implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services.'' Under IDEA Part C, States have the option to serve ''at-risk infants and toddlers,'' defined under section 632(1) as individuals under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. Additionally, under section 638(5) of the IDEA, States that do not serve ''at-risk infants and toddlers'' under IDEA Part C

Continued

Developmental Delays or Disabilities to achieve, at a minimum, the following:

(a) An early childhood multi-tiered systems of support (MTSS) framework focused on improving social, emotional, and behavioral development that explicitly integrates practices supported by evidence (as defined in this notice); addresses the needs of infants and toddlers as well as preschoolers; reduces inappropriate and disproportionate discipline practices affecting young children of color; increases inclusion and ongoing participation of young children with disabilities in early childhood settings; promotes family engagement; and is relevant for various early childhood settings (center, home, and community-based);

(b) Improved State and local capacity, including improved skills of personnel, to organize the infrastructure components (including policies, funding, workforce, coaching, data collection and analysis, and interagency leadership) needed to support, scale-up, and sustain the implementation of the early childhood MTSS framework described in paragraph (a) across early childhood programs; and

(c) Increased State and local implementation of the early childhood MTSS framework described in paragraph (a) with early childhood programs and providers using reliable and valid tools and processes for evaluating the fidelity of the implementation of the early childhood MTSS framework focused on social, emotional, and behavioral development; and measuring improvements in young children's social, emotional, and behavioral outcomes, and reductions in behavior incidents, suspensions, and expulsions.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the current and emerging needs of States, early childhood programs, and personnel to improve the social, emotional, and behavioral outcomes of young children with, and at risk for, developmental delays or disabilities through the implementation of an early childhood MTSS framework. To meet this requirement the applicant must—

(i) Present applicable national and State data demonstrating the need to address improved positive social, emotional, and behavioral outcomes in young children with, and at risk for, developmental delays or disability and the needs of States, early childhood programs, and personnel in implementing an early childhood MTSS framework focused on social, emotional, and behavioral development;

(ii) Demonstrate knowledge of current educational issues and policy initiatives related to: Implementing and sustaining an early childhood MTSS framework that promotes positive social, emotional, and behavioral outcomes for young children with, and at risk for, developmental delays or disability across early childhood settings; reducing disproportionate discipline practices and suspension and expulsion; and increasing inclusive opportunities for young children with disabilities;

(iii) Present information about the current level of State and local implementation of:

(A) Early childhood MTSS frameworks focused on social, emotional, and behavioral development;

(B) Activities to reduce disproportionate discipline and suspension and expulsion practices in early childhood programs;

(C) Activities to address challenging behavior as a barrier to inclusive opportunities for young children with disabilities; and

(D) IDEA Part C activities to implement SSIPs targeting their State-identified measurable result (SIMR) on the improvement of social and emotional outcomes;

(2) Improve State and local implementation of an early childhood MTSS framework focused on social, emotional, and behavioral development and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes. A logic model used in connection with this priority communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: Rather than use the definition of ''logic model'' in 34 CFR 77.1(c), OSEP uses the definition in paragraph (b)(2)(ii) of these application requirements. This definition, unlike the definition in 34 CFR 77.1(c), differentiates between logic models and conceptual frameworks. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on the effectiveness of an early childhood MTSS framework focused on social, emotional, and behavioral development and related practices supported by evidence;

(ii) The current research about adult learning principles and implementation science or improvement science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and practices supported by evidence in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on effective practices within, and implementation supports for, an early childhood MTSS framework focused on social, emotional, and behavioral development that—

(A) Improves the social, emotional, and behavioral development of infants,

may strengthen the statewide system by initiating, expanding, or improving collaborative efforts to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for IDEA child find and related purposes.

toddlers, and preschoolers with, or at risk for, developmental delays and disabilities;

(B) Reduces the use of suspension and expulsion in early childhood programs and addresses the disproportionate discipline practices for young children of color;

(C) Increases the inclusion of young children with disabilities in early childhood programs;

(D) Integrates infant mental health specialists and early childhood mental health consultants in the implementation of an early childhood MTSS framework;

(E) Allows for the collection and use of data to inform decision-making about improving social, emotional, and behavioral outcomes for young children; and

(F) Engages families of young children, including those from diverse cultural and linguistic backgrounds, in the social, emotional, and behavioral development of their children;

(ii) Its proposed approach to universal, general TA,[5] which must identify the intended recipients of the products and services under this approach and should include activities focused on strengthening an early childhood MTSS framework that promotes young children's social, emotional, and behavioral development including developing and strengthening existing resources, guidance, and tools on:

(A) Practices supported by evidence, policies and implementation supports to promote infant, toddlers' and preschoolers' social, emotional, and behavioral outcomes;

(B) Addressing potential disparities in the application or effect of discipline practices for young children of color and reducing suspension and expulsion in programs serving young children with, and at risk for, developmental delays and disabilities;

(C) Using valid and reliable tools to measure change in social, emotional, and behavioral outcomes at the child level and making data-based decisions to inform interventions; and

(D) Collecting data on progress towards social, emotional, and behavioral outcomes and discipline practices at the program level, and how to use these data to make decisions related to practices and policies;

(iii) Its proposed approach to targeted, specialized TA,[6] which must identify—

(A) The intended recipients, including the type and number of recipients that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level;

(C) The process by which the proposed project will collaborate with OSEP-funded TA centers (see *www.osepideasthatwork.org/find-center-or-grant/find-a-center*) and other federally funded TA Centers; and

(D) Its proposed approach to increasing the engagement and leadership of State IDEA Part C and Part B, section 619 coordinators to collaborate with other early childhood State leaders to significantly reduce or eliminate suspension and expulsion practices in early childhood programs.

(iv) Its proposed approach to intensive, sustained TA,[7] which must identify—

(A) The intended recipients, including the type and number of recipients that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of the recipients to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local level;

(C) Its proposed plan for assisting State early childhood agencies (including State educational agencies (SEAs) and lead agencies) to build training systems that include professional development based on adult learning principles and coaching;

(D) Its proposed plan for working across the early childhood and health systems (*e.g.,* child care, Head Start, State-funded prekindergarten, Part C and Part B section 619 of IDEA, home visiting, mental health) and with appropriate levels of the systems (*e.g.,* State early learning agencies, regional TA providers, districts and communities, schools and local programs, families) to ensure that there is communication across programs and between each level and that there are systems in place to support the use of an early childhood MTSS framework focused on social, emotional, and behavioral development; and

(E) The process by which the proposed project will collaborate with OSEP-funded centers (see *www.osepideasthatwork.org/find-center-or-grant/find-a-center*) and other federally funded TA Centers.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and

[5] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[6] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[7] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Allocation of key project providers and any consultants and subcontractors, and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients;

(4) The proposed project will benefit from a diversity of perspectives, including those of families, various early childhood programs, educators, TA providers, future leaders, researchers, and policy makers, among others, in its development and operation; and

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project.

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Three trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with and approved by the OSEP project officer.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(6) Engage doctoral students or post-doctoral fellows to increase the number of future leaders in the field who are knowledgeable about how to implement, scale-up, and sustain an early childhood MTSS framework focused on social, emotional, and behavioral development through engagement with the project; and

(7) Maintain a high-quality Web site, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and assessment of how well the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

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Definitions

For the purposes of this priority:

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model (34 CFR 77.1).

Supported by evidence means supported by at least strong theory.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $44,345,000 for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program for FY 2017, of which we intend to use an estimated $1,100,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applications from this competition.

Maximum Award: We will fund a successful application only up to $1,100,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; State lead agencies under Part C of the IDEA; local educational agencies (LEAs), including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the internet or from the Education Publications Center (ED Pubs). To obtain a copy via the internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a TDD or a TTY, call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326B.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you—(1) limit Part III to no more than 70 pages, and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- *Use one of the following fonts:* Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

3. *Submission Dates and Times:*

Applications Available: June 7, 2017.

Deadline for Transmittal of Applications: July 24, 2017.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 20, 2017.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

We are a participating partner in the Governmentwide *Grants.gov* Apply site. Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk for, Developmental Delays or Disabilities competition, CFDA number 84.326B, is included in this project. We request your participation in *Grants.gov*.

If you choose to submit your application electronically, use the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application.

You may access the electronic grant application for the Technical Assistance Center on Positive Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk for, Developmental Delays or Disabilities competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.326, not 84.326B).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- If you submit your application electronically, upload any narrative sections and all other attachments to your application as files in a read-only Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed

information on how to attach files is in the application instructions.

- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov,* it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov,* please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov,* along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Submission of Paper Applications by Mail

If you submit your application by mail (through the U.S. Postal Service or a commercial carrier), mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326B), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your applications in paper format by hand delivery, deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326B), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the

Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. For purposes of this priority, the Center will use these measures, which focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department

published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ruth E. Ryder,

Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2017–11842 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0038]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Protection and Advocacy of Individual Rights (PAIR)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0038. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–42, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Samuel Pierre, 202–245–6488.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Protection and Advocacy of Individual Rights (PAIR).

OMB Control Number: 1820–0627.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 912.

Abstract: The Annual Protection and Advocacy of Individual Rights (PAIR) Program Performance Report (Form RSA–509) will be used to analyze and evaluate the effectiveness of eligible systems within individual states in meeting annual priorities and objectives. These systems provide services to eligible individuals with disabilities to protect their legal and human rights. Rehabilitation Services Administration (RSA) uses the form to meet specific data collection requirements of Section 509 of the Rehabilitation Act of 1973, as amended (the act), and its implementing federal regulations at 34 CFR part 381. PAIR programs must report annually using the form, which is due on or before December 30 each year. Form RSA–509 has enabled RSA to furnish the President and Congress with data on the provision of protection and advocacy services and has helped to establish a sound basis for future funding requests. These data also have been used to indicate trends in the provision of services from year-to-year.

Dated: June 2, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11802 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0037]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Client Assistance Program (CAP) Report

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0037. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–42, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jim Doyle, 202–245–6630.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Client Assistance Program (CAP) Report.

OMB Control Number: 1820–0528.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 912.

Abstract: Form RSA 227 is used to meet specific data collection requirements contained in Section 112 of the Rehabilitation Act of 1973, as amended, and its implementing Federal Regulations at 34 CFR part 370. Data from the form have been used to evaluate individual programs. These data also have been used to indicate trends in the provision of services from year-to-year. In addition, Form RSA–227 is used to analyze and evaluate the effectiveness of individual Client Assistance Program (CAP) grantees. These agencies provide services to individuals seeking or receiving services from programs and projects authorized by the Rehabilitation Act of 1973, as amended. Form RSA–227 has enabled RSA to furnish the President and Congress with data on the provision of advocacy services and has helped to establish a sound basis for future funding requests.

Dated: June 2, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11800 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0079]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS 2019) Main Study Recruitment and Field Test

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0079. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Trends in International Mathematics and Science Study (TIMSS 2019) Main Study Recruitment and Field Test.

OMB Control Number: 1850–0695.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 40,666.

Total Estimated Number of Annual Burden Hours: 10,386.

Abstract: The Trends in Mathematics and Science Study (TIMSS) is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years. The United States will participate in TIMSS 2019 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement. New in 2019, TIMSS will be a technology-based assessment conducted in an electronic format. TIMSS is designed by the International Association for the Evaluation of Educational Achievement (IEA), and is conducted in the U.S. by the National Center for Education Statistics (NCES). In preparation for the TIMSS 2019 main study, in April-May 2017, U.S. participated in a pilot study to assist in the development of eTIMSS and, in March through April 2018, U.S. will

participate in a field test to evaluate new assessment items and background questions. The TIMSS 2019 Main Study data collection will take place from April through May 2019, with recruitment beginning in spring 2018. This request is to conduct the TIMSS 2019 field test and to begin recruitment of schools, teachers, and students for the main study. In November 2017, NCES will submit a request for the TIMSS 2019 Main Study data collection.

Dated: June 2, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11792 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0077]

Agency Information Collection Activities; Comment Request; Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim Form and Request for Collection Assistance Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0077. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim Form and Request for Collection Assistance Form.

OMB Control Number: 1845–0127.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 4,613.

Total Estimated Number of Annual Burden Hours: 875.

Abstract: The HEAL Lender's application for Insurance Claim and the request for Collection Assistance forms are used in the administration of the Health Education Assistant Loan (HEAL) program. The HEAL program provided federally insured loans to students in certain health professions disciplines, and these forms are used in the administration of the HEAL program. The Lender's Application for Insurance Claim is used by the lending institution to request payment of a claim by the Federal Government. The Request for Collection Assistance form is used by the lender to request proclaims assistance from the Department. Section 525 of the Consolidated Appropriations Act, 2014, transferred the collection of the Health Education Assistance Loan (HEAL) program loans from the U.S. Department of Health and Human Services (HHS) to the U.S. Department of Education (ED).

Dated: June 2, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11772 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0045]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Evaluation of Academic Language Intervention

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before July 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0045. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tracy Rimdzius, 202–245–7283.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork

Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Impact Evaluation of Academic Language Intervention.

OMB Control Number: 1850—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Annual Responses: 546.

Total Estimated Number of Annual Burden Hours: 492.

Abstract: The purpose of the Impact Evaluation of Academic Language Intervention is to assess the impact of a promising academic language intervention on teachers' instructional practice and students' language and reading skills, with a particular focus on students who are English Learners (ELs) and disadvantaged non-EL students. Although prior studies of academic language instruction provide some initial evidence of the efficacy of instructional practices, confirmation of large-scale effectiveness is needed. This evaluation will contribute to the knowledge base of the instructional practices that improve language and literacy outcomes for these high need populations.

This submission covers data collection for the baseline period prior to implementing the selected academic language intervention, during the implementation year (the 2017–18 school year), and a follow-up year (spring 2019). The evaluation will examine the implementation and impact of an academic language program, using a random assignment design in which participating schools in each district are randomly assigned to a treatment group whose 4th and 5th grade teachers receive training and materials to implement the program or to a control group whose teachers do not. This submission covers the following data collection activities: Teacher surveys, teacher and student rosters, and school district records data.

Dated: June 2, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11813 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0043]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; The College Assistance Migrant Program (CAMP) Annual Performance Report (APR)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0043. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–42, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tara Ramsey, 202–260–2063.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: The College Assistance Migrant Program (CAMP) Annual Performance Report (APR).

OMB Control Number: 1810–0727.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 40.

Total Estimated Number of Annual Burden Hours: 1,600.

Abstract: The College Assistance Migrant Program (CAMP) office staff collects information for the CAMP Annual Performance Report (APR) the data being collected is in compliance with Higher Education Act of 1965, as amended, Title IV, Sec. 418A; 20 U.S.C. 1070d–2 (special programs for students whose families are engaged in migrant and seasonal farm work) (shown in appendix A), the Government Performance Results Act (GPRA) of 1993, Section 4 (1115) and the Education Department General

Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an APR demonstrating that substantial progress has been made towards meeting the approved objectives of the project. In addition, EDGAR requires discretionary grantees to report on their progress toward meeting the performance measures established for the ED grant program. This data collection is a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform GPRA, to improve the overall quality of data collected, and to increase the quality of data that can be used for evaluation and to inform policy decisions.

Dated: June 2, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11801 Filed 6–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. IES–001]

Notice of Petition for Waiver From Acuity Brands From the Department of Energy Illuminated Exit Signs Test Procedure

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

ACTION: Notice of petition for waiver and request for public comments.

SUMMARY: This notice announces receipt of a petition from Acuity Brands (Acuity) seeking a waiver from specific portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of illuminated exit signs. Acuity seeks to use an alternate test procedure to address issues involved in testing certain basic models of illuminated exit signs identified in its petition. Acuity contends that its combination illuminated exit signs cannot be accurately tested using the currently applicable DOE test procedure. Although Acuity has proposed an alternate test procedure, DOE is proposing a different alternate test procedure to test and rate specified Acuity basic models in this notice. DOE solicits comments, data, and information concerning Acuity's petition and DOE's proposed alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the petition received until July 7, 2017.

ADDRESSES: You may submit comments, identified by case number IES–001, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov* Include the case number [Case No. IES–001] in the subject line of the message.
- *Mail:* Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE–2B/ 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Room 6055, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit *http://www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *AS_Waiver_Requests@ee.doe.gov.*

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In an updated petition received on March 22, 2016 (initially submitted on April 17, 2013) and in an email received on May 1, 2017, Acuity requested that DOE grant a test procedure waiver for specified models of illuminated exit signs that cannot be tested under the existing DOE test procedure. The basic models of illuminated exit signs at issue are models typically known as combination illuminated exit signs. These basic models include components such as egress lighting or alarms that typically require a larger battery to power the auxiliary features, which causes the test procedure to provide inaccurate comparative data.

I. Background and Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (''EPCA''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes illuminated exit signs.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for illuminated exit signs is contained in 10 CFR part 431, subpart L.[3]

The regulations set forth in 10 CFR 431.401 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that: (1) Prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1) A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii)

[1] For editorial reasons Part B of title III was redesignated as Part A upon incorporation into the U.S. Code.

[2] All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

[3] Although illuminated exit signs are covered products pursuant to EPCA, as a matter of administrative convenience and to minimize confusion among interested parties, DOE adopted illuminated exit sign provisions into subpart L of 10 CFR part 431 (the portion of DOE's regulations dealing with commercial and industrial equipment) because typically businesses, rather than individuals, purchase them. 70 FR 60407, 60409 (Oct. 18, 2005). DOE refers to illuminated exit signs as either ''products'' or ''equipment.''

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2) As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 431.401(l).

DOE discusses the petition and alternate test procedures in the following sections.

II. Petition for Waiver of Test Procedure

On March 22, 2016, Acuity filed an updated petition for a waiver (the initial petition was submitted on April 17, 2013) for certain basic models of illuminated exit signs that are required to be tested according to test procedures detailed in 10 CFR 431.204. (Acuity, No. 0002 at pp. 1–3) [4] Acuity supplemented its filing with an email submitted to DOE on May 1, 2017, that further clarified the specific basic models for which the waiver is being requested.[5] Acuity has requested a waiver for basic models that provide the dual function of exit signage and lighting for emergency egress (combination illuminated exit signs), stating that the battery used in combination illuminated exit signs requires a substantially larger capacity to provide a minimum of 90 minutes of egress lighting, as required by safety codes. Acuity has further stated that it is not feasible to separate the power measurement associated with the exit signage and the egress lighting because a single battery and charging circuit supplies power for both functions.

As an alternative to the test procedure currently in place at 10 CFR part 431, subpart L, Acuity has recommended that, for combination illuminated exit signs, the power should be determined using the following procedure:

(1) Measure input power, which is the total power supplied to the combination illuminated exit sign including the charging circuit and light source(s) for the exit sign face(s). Note: The egress lights will not be operational in this mode because they are designed to only operate under a condition when the unit is not receiving power.

(2) Determine the total battery power, with the battery circuit connected and fully charged before any measurements are made.

total battery power = input power − rated wattage of light source(s) for exit sign

(3) Determine the battery proration factor.

battery proration factor = (rated wattage of light source(s) for exit sign)/ (rated wattage of light sources(s) for egress lighting + rated wattage of light source(s) for exit sign)

(4) Calculate the combination illuminated exit sign power.

combination illuminated exit sign power = (battery proration factor × total battery power) + rated wattage of light source(s) for exit sign

Acuity seeks a test procedure waiver for specified basic models (see footnote and Table III.1). Acuity also requested that any new products introduced by the company into commerce that provide the dual function of exit signage and emergency egress lighting be covered by the waiver. DOE regulations at 10 CFR 430.27(f)(2) provide that DOE may grant a waiver, including adherence to alternate test procedures, only for ''the basic model(s) for which the waiver was requested.'' Acuity may request to extend the scope of a waiver to additional basic models pursuant to 10 CFR 431.401(g) by identifying the particular basic models for which a waiver is requested, but the present waiver, if granted, would extend to only those basic models identified in the updated waiver petition currently under consideration.

III. Alternate Test Procedure

Upon review of the alternate test procedure submitted by Acuity in its petition for wavier, DOE found that ''rated wattage of light source(s)'' associated with the face and egress light source(s), respectively, is not always well documented in Acuity's product literature for the basic models under consideration. A lack of data in the manufacturer data sheet with respect to the wattage of the light source(s) prevents the accurate and repeatable calculation of the combination illuminated exit sign input power demand in Acuity's proposed test procedure. Therefore, DOE is proposing alternate test procedures that provide methods to test and rate the basic models at issue without the rated wattage of the light source(s).

DOE investigated various approaches to isolate the input power used to illuminate only the exit sign portion of a combination exit sign: Including disconnecting the battery; scaling or prorating the portion of the input power demand associated with the battery; and measuring alternative power quantities as a proxy for input power demand. DOE tentatively concluded that these methods would require isolating the battery power used to illuminate the faces of the exit sign from the battery power used to operate auxiliary features. Based on DOE's review of combination exit signs, DOE has tentatively determined that it is either not possible to measure the required quantities or that doing so would require cutting of wires and modifying the circuitry of the combination exit sign.

DOE reviewed the basic models submitted in Acuity's petition for waiver and updated basic model list provided in Acuity's email submitted to DOE on May 1, 2017, and determined that the basic models in the waiver are comprised of two sub-varieties: (A) Combination illuminated exit signs with equivalent non-combination versions [6] and (B) Combination illuminated exit signs without equivalent non-combination versions. Table III.1 provides a review of the combination illuminated exit sign basic models submitted by Acuity for waivers, and notes DOE's proposed alternate test method, described in detail below.

[4] A notation in this form provides a reference for information that is in the docket for this test procedure waiver (Docket No. EERE–2017–BT–WAV–0033) (available at *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0033*). This notation indicates that the statement preceding the reference is document number 2 in the docket and appears at pages 1–3 of that document.

[5] The following are the basic models of combination LED exit signs for which Acuity seeks a test procedure waiver: ECG 1F, ECG 1F HO, ECG 2F, ECG 2F HO, ECR 1F, ECR 1F HO, ECR 2F, ECR 2F HO, ECG LED 1F HO, ECG LED 2F HO, ECR LED 1F HO, ECR LED 2F HO, ECG LED 1F, ECG LED 2F, ECR LED 1F, ECR LED 2F, ECBG LED 1F, ECBG LED 2F, ECBR LED 1F, ECBR LED 2F, LHD2D18G, LHD2D18R, LHD2D36G, LHD2D36R, LHD2D72G, LHD2D72R, LHD2S18G, LHD2S18R, LHD2S36G, LHD2S36R, LHD2S72G, LHD2S72R, LHQM LED 1F HO GREEN, LHQM LED 1F HO RED, LHQM LED 2F HO GREEN, LHQM LED 2F HO RED, LHQM LED 1F GREEN, LHQM LED 1F RED, LHQM LED 2F GREEN, LHQM LED 2F RED, LHXNY W 1 R, LHXC W 1 RW, LHXC W 2 RW, LHZ618 GREEN, LHZ618 RED, LHZ636 GREEN, LHZ636 RED, LHZ672 GREEN, LHZ672 RED, QM LED 1F GREEN, QM LED 1F HO GREEN, QM LED 1F RED, QM LED 1F HO RED, QM LED 2F GREEN, QM LED 2F HO GREEN, QM LED 2F RED, QM LED 2F HO RED, NXPCL 1F, and NXPCL 2F.

[6] DOE uses the term ''equivalent non-combination illuminated exit sign'' in this notice to mean an illuminated exit sign that consists of electric consuming components and a battery identical to those of the combination illuminated exit sign at issue, but that does not have any auxiliary features. The equivalent non-combination illuminated exit sign must also have the same manufacturer and number of faces as the combination exit sign whose input power demand is being determined.

TABLE III.1—REVIEW OF COMBINATION ILLUMINATED EXIT SIGN BASIC MODELS SUBMITTED BY ACUITY

Acuity basic model *	Equivalent non-combination illuminated exit sign *	DOE's proposed alternate test method
Lithonia Lighting brand models: ECG 1F, ECG 1F HO, ECG 2F, ECG 2F HO, ECR 1F, ECR 1F HO, ECR 2F, ECR 2F HO.	No	Method B.
Lithonia Lighting brand models: ECG LED 1F HO, ECG LED 2F HO, ECR LED 1F HO, ECR LED 2F HO.	No	Method B.
Lithonia Lighting brand models: ECG LED 1F, ECG LED 2F, ECR LED 1F, ECR LED 2F	Yes	Method A.
Lithonia Lighting brand models: ECBG LED 1F, ECBG LED 2F, ECBR LED 1F, ECBR LED 2F	No	Method B.
Holophane brand models: LHD2D18G, LHD2D18R, LHD2D36G, LHD2D36R, LHD2D72G, LHD2D72R, LHD2S18G, LHD2S18R, LHD2S36G, LHD2S36R, LHD2S72G, LHD2S72R.	No	Method B.
Lithonia Lighting brand models: LHQM LED 1F HO GREEN, LHQM LED 1F HO RED, LHQM LED 2F HO GREEN, LHQM LED 2F HO RED.	Yes	Method A.
Lithonia Lighting brand models: LHQM LED 1F GREEN, LHQM LED 1F RED, LHQM LED 2F GREEN, LHQM LED 2F RED.	No	Method B.
Lithonia Lighting brand model: LHXNY W 1 R	No	Method B.
Lithonia Lighting brand models: LHXC W 1 RW, LHXC W 2 RW	No	Method B.
Lithonia Lighting brand models: LHZ618 GREEN, LHZ618 RED, LHZ636 GREEN, LHZ636 RED, LHZ672 GREEN, LHZ672 RED.	Yes	Method A.
Holophane brand models: QM LED 1F GREEN, QM LED 1F HO GREEN, QM LED 1F RED, QM LED 1F HO RED, QM LED 2F GREEN, QM LED 2F HO GREEN, QM LED 2F RED, QM LED 2F HO RED.	Yes	Method A.
Navilite brand models: NXPCL 1F, NXPCL 2F	Yes	Method A.

* All Acuity basic models listed in the table above are illuminated exit signs manufacturered exclusively with LEDs.

For these two sub-varieties, DOE presents the two alternate test methods, test method A and test method B, in the following sections.

A. Test Method for Combination Illuminated Exit Sign Basic Models With Equivalent Non-Combination Illuminated Exit Signs (Method A)

DOE has determined that for Acuity combination illuminated exit sign basic models ECG LED 1F, ECG LED 2F, ECR LED 1F, ECR LED 2F, LHQM LED 1F HO GREEN, LHQM LED 1F HO RED, LHQM LED 2F HO GREEN, LHQM LED 2F HO RED, LHZ618 GREEN, LHZ618 RED, LHZ636 GREEN, LHZ636 RED, LHZ672 GREEN, LHZ672 RED, QM LED 1F GREEN, QM LED 1F HO GREEN, QM LED 1F RED, QM LED 1F HO RED, QM LED 2F GREEN, QM LED 2F HO GREEN, QM LED 2F RED, QM LED 2F HO RED, NXPCL 1F, and NXPCL 2F it is not possible to keep the face(s) illuminated while disconnecting the battery and all auxiliary features in a manner that permits reinstallation using only the original parts in order to allow for the measurement of only the input power required to illuminate the face(s). However, DOE has determined that these models have equivalent non-combination illuminated exit sign models. For these basic models, DOE is considering the following alternate test method (method A):

(1) Identify a non-combination illuminated exit sign equivalent to the combination illuminated exit sign under test. A unit is an equivalent non-combination substitute only if it consists entirely of components identical to all of those of the unit whose input power demand is being determined, but does not include any auxiliary features, and contains an electrically connected battery. The equivalent unit must also have the same manufacturer and number of faces as the unit whose input power demand is being determined.

(2) Assign the input power demand of the combination illuminated exit sign under test as the input power demand of the equivalent non-combination illuminated exit sign.

B. Test Method for Combination Illuminated Exit Sign Basic Models Without Equivalent Non-Combination Illuminated Exit Signs (Method B)

DOE has determined that for Acuity combination illuminated exit sign basic models ECG 1F, ECG 1F HO, ECG 2F, ECG 2F HO, ECR 1F, ECR 1F HO, ECR 2F, ECR 2F HO, ECG LED 1F HO, ECG LED 2F HO, ECR LED 1F HO, ECR LED 2F HO, ECBG LED 1F, ECBG LED 2F, ECBR LED 1F, ECBR LED 2F, LHD2D18G, LHD2D18R, LHD2D36G, LHD2D36R, LHD2D72G, LHD2D72R, LHD2S18G, LHD2S18R, LHD2S36G, LHD2S36R, LHD2S72G, LHD2S72R, LHQM LED 1F GREEN, LHQM LED 1F RED, LHQM LED 2F GREEN, LHQM LED 2F RED, LHXNY W 1 R, LHXC W 1 RW, and LHXC W 2 RW it is not possible to keep the face(s) illuminated while disconnecting the battery and all auxiliary features in a manner that permits reinstallation using only the original parts to allow for the measurement of only the input power required to illuminate the face(s). DOE has also determined that these models do not have equivalent non-combination illuminated exit sign models, rendering method A inapplicable. For these basic models, DOE is considering the following alternate test method (method B):

If the combination illuminated exit sign under test uses only LEDs to illuminate all face(s) of the unit, assign an input power demand according to the following formula:

input power demand = 5 watts × number of faces [7]

IV. Summary and Request for Comments

Through this notice, DOE is publishing Acuity's petition for waiver pursuant to 10 CFR 431.401(b)(1)(iv). The petition contains no confidential information. The petition includes a description of why DOE's test procedure produces inaccurate results for certain models of combination illuminated exit signs and a recommended alternate test procedure, applicable to the measurement of energy efficiency of the models of combination illuminated exit signs specified by Acuity in its petition for waiver. In this notice, DOE proposes a different test method for determining the energy efficiency of the combination

[7] This method requires determination of the number of faces for each basic model. Face count is the number of faces (no fewer than one) with which an illuminated exit sign basic model can be configured by an end user when all electric light sources are connected and energized.

illuminated exit signs included in Acuity's waiver.

DOE solicits comments from interested parties on all aspects of the petition, the test method recommended by Acuity, DOE's stated concerns regarding that test method, and DOE's proposed test procedure. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Cheryl English, VP, Government & Industry Relations, Acuity Brands Lighting, Inc., One Lithonia Way, Conyers, GA 30012. All submissions received must include the case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on May 26, 2017.

Kathleen B. Hogan,

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

Date: 3/22/2016

Subject: Acuity Brands Updated Petition for Test Procedure Waiver for Illuminated Exit Signs

Upon request by DOE, Acuity Brands is updating the petition request submitted on 4/17/2013 for test procedure waiver for Illuminated Exit Signs pursuant to 10 CFR 431.401 to clarify that the petition is for a final test procedure waiver for certain models of illuminated exit signs.

The petition is on the grounds that the basic models contain design characteristics which prevent testing of the basic models according to the prescribed test procedures and that the prescribed test procedures evaluate the basic models in a manner unrepresentative of their true energy consumption characteristics and provide materially inaccurate comparative data.

Background

Illuminated Exit Signs are covered under the Energy Policy & Conservation Act (EPCA) as amended by Section 135 of the Energy Policy Act of 2005 (EPAct 2005). This product category was included in EPA's Energy Star program and the intent of the EPAct 2005 amendment was to make the Energy Star program's product regulated by EPCA. The test procedures adopted by Congress for this product category is the Energy Star program (v. 2.0) test procedures, and the energy conservation standards are the performance requirements for the Energy Star program (v. 2.0). See 42 U.S.C. 6293(b)(9) and 6295(w).

When Illuminated Exit Signs were included in EPAct 2005, the industry interpretation was based on a scope consistent with the Energy Star program covering products that provided *only* the functional characteristics defined in the regulation to illuminate the signage itself, with no expressed intent to also regulate energy used for emergency egress lighting. The statutory definition of illuminated exit sign (10 CFR 431.202) includes the phrase ''consists of electrically powered *integral* light source that—(i) illuminates the legend 'EXIT' and any directional indicators . . .''

Certain basic models of illuminated exit signs provide the dual function of exit signage and lighting for emergency egress (combo unit). However, the battery used in a combo unit requires a substantially larger capacity to provide a minimum of 90 minutes of egress lighting as required by life safety code, as well as illuminating the EXIT legend and directional indicators. Because of this, the test procedures when applied to a combo unit do not accurately represent the energy consumption associated with illuminating the exit sign legend.

See the following Web site for figures of the ''Standard Illuminated Exit Sign'' and ''Combo unit'' Illuminated Exit Sign and Egress Light'': *http://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-WAV-0033*

Basic Models Requested for Test Procedure Waiver

The following Acuity Brands basic models are submitted under the conditions of this waiver:

EC, ECB, LHD2, LHQM, LHX, LHXC, LHZ, QM, NNYXSC, NX (NavLite combo)

(covering all lettering colors, housing material, source type or other options for each basic model)

Furthermore, Acuity Brands petitions that any new products introduced by Acuity Brands into commerce that provide the dual function of exit signage and emergency egress lighting will also be covered by the waiver.

Test Procedure Issues

A combo unit utilizes a higher capacity battery to power *both* the exit sign face(s) as well as emergency egress lighting during a power outage. While § 431.202 indicates that the input power demand shall be measured with batteries at full charge, the higher capacity dual function battery for a combo unit results in a higher power than a smaller battery utilized in a unit that provides only the exit signage functionality.

The performance specification for the input power described in the Energy Star specifications limits the power to illuminate *the face* of the exit sign with no reference to power associated with the emergency egress lighting. The test procedure for Energy Star 2.0 requires the measurement of power including the internal battery, but the power limits were not established using a baseline for units that provide the dual function associated with a combo unit. For a combo unit, it is not feasible to separate the power measurement associated with the exit signage and the egress lighting since a single battery and charging circuit supplies power for both functions.

Alternate Test Procedure for Combo Units

There are no nationally recognized test procedures to measure the power for a combo unit that describes the power associated only with illuminating the face(s) of the exit sign. Therefore Acuity Brands is submitting the following alternate test procedure to accurately represent the power of a combo unit used to illuminating the legend 'EXIT', directional indicators and proportional battery power for the face(s) of the exit sign.

For combination exit and egress lighting units (combo units), the power shall be determined by the following procedure:

1. Measure *input power,* the total power supplied to the combo unit including the charging circuit and light source(s) for the exit sign face(s). *Note:* The egress lights will not be operational in this mode since they are designed to only operate under a condition when the unit is not receiving power.

2. Determine the *total battery power,* with the battery circuit connected and fully charged before any measurements are made.

total battery power = input power − rated wattage of light source(s) for exit sign

3. Determine the *battery proration factor:*

Battery proration factor = rated wattage of light source(s) for exit sign (rated wattage of light sources(s) for egress lighting + rated wattage of light source(s) for exit sign)

4. Calculate the *combo unit power:*

Combo unit power = (Battery proration factor × total battery power) + rated wattage of light source(s) for exit sign

Conclusion

Acuity Brands is submitting this request for a test procedure waiver for combo units that provide the dual function of exit signage and emergency egress lighting. The waiver request has outlined that:

1. The prescribed test procedures are based on power intended only to illuminate the face of the exit sign and will evaluate the basic models of combo units in a manner unrepresentative of their true energy consumption characteristics

2. the prescribed test procedures will evaluate the basic models of combo units in a manner that results in materially inaccurate comparative data, and

3. there are no existing industry standards that define test procedures to measure the energy consumption characteristics for a combo unit that is associated with only the exit sign face(s), and

4. the alternate test procedure proposed by Acuity Brands for combo units will accurately describe the power to illuminate the face of the exit and the proportion of battery charging circuit power used to illuminate the face(s) of the exit during a power outage.

Based on DOE general counsel guidance on waivers issued December 23, 2010, it is our understanding that DOE has made a commitment to (1) act promptly on waiver requests and to update its test procedures to address granted waivers going forward and (2) prevent the administrative waiver process from delaying or deterring the introduction of novel, innovative products into the marketplace and as a matter of enforcement policy will refrain from enforcement actions related to pending waiver requests.

Thank you in advance for your prompt consideration of this waiver request.

Cheryl English
VP, Government & Industry Relations
Acuity Brands Lighting, Inc., One Lithonia Way, Conyers, GA 30012, 770–860–2660, *Cheryl.English@AcuityBrands.com.*

[FR Doc. 2017–11790 Filed 6–6–17; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14828–000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Meyersdale Pumped Storage Hydroelectric Project to be located in Somerset County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 45 acres and a storage capacity of 675 acre-feet at a surface elevation of approximately 2,790 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-filled dam and/or dike; (2) excavating a new lower reservoir with a surface area of 30 acres and a total storage capacity of 810 acre-feet at a surface elevation of 2,100 feet msl; (3) a new 5,500-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 38 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point at the Meyersdale Wind Farm; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from the nearby Casselman River, including groundwater. The proposed project would have an annual generation of 139,369 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14828–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14828) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11766 Filed 6–6–17; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1723–000]

Green Power Solutions of Georgia, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Green

Power Solutions of Georgia, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 21, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11759 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9842–007]

Ray F. Ward; Notice of Application for Surrender of License, 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. *Type of Proceeding:* Application for surrender of license.

b. *Project No.:* 9842–007.

c. *Date Filed:* May 22, 2017.

d. *Licensee:* Ray F. Ward.

e. *Name of Project:* Ward Mill Dam Project.

f. *Location:* The project is located on the Watauga River in Watauga County, near Boone, North Carolina.

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

h. *Licensee Contact:* Mr. Andrew C. Givens, 2308 Wheeler Road, Raleigh, NC 27612, phone 919–605–6125.

i. *FERC Contact:* Ms. Diana Shannon, (202) 502–6136, *Diana.shannon@ferc.gov.*

j. Deadline for filing comments, interventions, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–9842–007.

k. *Description of Request:* The project was recently issued a subsequent license on February 2, 2017. Due to the requirements of the new license and certain circumstances of the licensee, the licensee has declined to accept the license as issued and requests to surrender the project. The licensee plans to disconnect the generating units from the utility interconnection point, remove the generators and turbines, and sell the equipment. All anticipated changes will remain within the existing powerhouse. No changes to the exterior of the powerhouse are planned.

l. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

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, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate the temporary variance that is the subject of this notice. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the

applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11764 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–285]

Pacific Gas and Electric Company; Notice of Intent to File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, Prepare an Environmental Impact Statement, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 77–285.

c. *Dated Filed:* April 6, 2017.

d. *Submitted By:* Pacific Gas & Electric Company (PG&E).

e. *Name of Project:* Potter Valley Project.

f. *Location:* On the Eel and East Fork Russian Rivers in Lake and Mendocino Counties, California, about 15 miles northeast of the City of Ukiah. The majority of the project is located on lands owned by PG&E and National Forest System Lands administered by the U.S. Forest Service, Mendocino National Forest.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Debbie Powell, Senior Director, Power Generation—Operations, Pacific Gas and Electric Company, P.O. Box 770000, MCN11D–1138, San Francisco, CA 94177–0001

i. *FERC Contact:* John Mudre at (202) 502–8902 or email at *john.mudre@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402, (b) NOAA Fisheries under section 305(b)(2) of the Magnuson-Stevens Fisheries Conservation and Management Act; and (c) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating PG&E as the Commission's non-federal representatives for carrying out informal consultation, pursuant to: section 7 of the Endangered Species Act; section 305(b)(2) of the Magnuson-Stevens Fisheries Conservation and Management Act; and section 106 of the National Historic Preservation Act.

m. On April 6, 2017, PG&E filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–77–285.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by August 4, 2017.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Wednesday, June 28, 2017

Time: 9:00 a.m.

Location: Ukiah Valley Conference Center, 200 South School Street, Ukiah, CA.
Phone: (707) 463–6700.

Evening Scoping Meeting

Date: Wednesday, June 28, 2017
Time: 6:00 p.m.
Location: Ukiah Valley Conference Center, 200 South School Street, Ukiah, CA.
Phone: (707) 463–6700

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an Environmental Site Review (site visit) of the project on Tuesday, June 27, 2017. Participants are responsible for their own transportation. Persons planning on participating in the site visit must RSVP to Ms. Susan Kester of PG&E at *S1KV@pge.com* (preferably) or (415) 973–7202, on or before June 13, 2017. Additional details concerning the site visit are provided in SD1.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are provided in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public record for this project.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11761 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8005–006]

Moomaws Dam Hydroelectric Corporation, Columbia Mills Hydroelectric Limited Partnership; Notice of Transfer of Exemption

1. By letter filed April 26, 2017, Moomaws Dam Hydroelectric Corporation informed the Commission that the exemption from licensing for the Moomaws Dam Hydroelectric Project No. 8005, originally issued June 21, 1984 [1] has been transferred to the Columbia Mills Hydroelectric Limited Partnership. The project is located on the Maury River in Rockbridge County, Virginia. The transfer of an exemption does not require Commission approval.

2. Columbia Mills Hydroelectric Limited Partnership is now the exemptee of the Moomaws Dam Hydroelectric Project No. 8005. All correspondence should be forwarded to: Mr. Gregory Cloutier, President and Mr. William Allin, Vice President, Columbia Mills Hydroelectric Limited Partnership, c/o Powerhouse Systems, Inc., 80A Elm Street, Lancaster, NH 03584, Phone: 603–443–7610, Email: *watrpwr@gmail.com.*

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11763 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

[1] Order Granting Exemption from Licensing of a Small Project of 5 Megawatts or Less. *Rockfish Corporation, Inc.,* 27 FERC ¶ 62,331 (1984).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17–4–000]

Commission Information Collection Activities (FERC–521); Comment Request

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Comment request.

SUMMARY: The Federal Energy Regulatory Commission (Commission or FERC) previously issued a 60-day Notice in the **Federal Register** requesting public comments on FERC–521 (Payments for Benefits from Headwater Improvements). The Commission received no comments.

In compliance with the requirements of the Paperwork Reduction Act of 1995, the Commission is submitting the FERC–521 to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on FERC–521 are due by July 7, 2017.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0087, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC17–4–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading

comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–521, Payments for Benefits from Headwater Improvements.

OMB Control No.: 1902–0087.

Type of Request: Three-year extension of the FERC–521 information collection requirements with no changes to the current reporting requirements.

Abstract: The information collected under the requirements of FERC–521 is used by the Commission to implement the statutory provisions of Section 10(f) of the Federal Power Act (FPA).[1] The FPA authorizes the Commission to determine headwater benefits received by downstream hydropower project owners. Headwater benefits are the additional energy production possible at a downstream hydropower project resulting from the regulation of river flows by an upstream storage reservoir.

When the Commission completes a study of a river basin, it determines headwater benefits charges that will be apportioned among the various downstream beneficiaries. A headwater benefits charge and the cost incurred by the Commission to complete an evaluation are paid by downstream hydropower project owners. In essence, the owners of non-federal hydropower projects that directly benefit from a headwater improvement must pay an equitable portion of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The regulations provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains and propose equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built. The Commission requires owners of non-federal hydropower projects to file data for determining annual charges as outlined in 18 Code of Federal Regulations (CFR) Part 11.

Type of Respondents: There are two types of entities that respond, Federal and Non-Federal hydropower project owners. The Federal entities that typically respond are the U.S. Army Corps of Engineers and the U.S. Department of Interior Bureau of Reclamation. The Non-Federal entities may consist of any Municipal or Non-Municipal hydropower project owner.

Estimate of Annual Burden:[2] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–521—PAYMENTS FOR BENEFITS FROM HEADWATER IMPROVEMENTS

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Federal and Non-Federal hydropower project owners.	3	1	3	40 hrs.; $3,060	120 hrs.; $9,180	$3,060
Total Cost					120 hrs.; $9,180	3,060

The total estimated annual cost burden to respondents is $9,180 [120 hrs. * $76.50/hour[3] = $9,180]

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11760 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER16–2412–002.

Applicants: Luning Energy LLC.

Description: Supplement to December 16, 2016 Triennial Report for Northwest region of Luning Energy LLC.

Filed Date: 5/31/17.

Accession Number: 20170531–5349.

Comments Due: 5 p.m. ET 6/14/17.

Docket Numbers: ER17–1727–000.

Applicants: International Transmission Company.

Description: § 205(d) Rate Filing: CIAC Agreement with DTE Electric Company to be effective 7/31/2017.

Filed Date: 5/31/17.

Accession Number: 20170531–5270.

Comments Due: 5 p.m. ET 6/21/17.

Docket Numbers: ER17–1728–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–05–31_Attachment X Clean-up related to Queue Reform to be effective 8/1/2017.

Filed Date: 5/31/17.

Accession Number: 20170531–5273.

Comments Due: 5 p.m. ET 6/21/17.

Docket Numbers: ER17–1729–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Amendment to City and County of San

[1] 16 U.S.C. 803.

[2] Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[3] Commission staff thinks that respondents to this collection are similarly compensated in terms of salary and benefits. $76.50/hour is the average FERC employee hourly salary plus benefits for 2017.

Francisco Hunters Point #1 WDT (SA 36) to be effective 8/1/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5006.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1730–000.

Applicants: Entergy Arkansas, Inc., Entergy New Orleans, Inc., Entergy Louisiana, LLC.

Description: § 205(d) Rate Filing: EAI–ELL–ENO Union Power Reactive to be effective 8/1/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5009.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1731–000.

Applicants: Entergy Texas, Inc., Entergy Louisiana, LLC.

Description: § 205(d) Rate Filing: ELL–ETI Big Cajun II U3 Reactive to be effective 8/1/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5010.

Comments Due: 5 p.m. ET 6/22/17.

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: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11768 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–450–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on May 25, 2017, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP17–450–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authorization to abandon in place its offshore gathering laterals extending from Brazos Block A–133A to Brazos Block 538. The gathering facilities proposed to be abandon are located on Transco's Central Texas Gathering System (CTGS) in federal waters offshore Texas.

Specifically, Transco proposes to abandon the CTGS West Facilities that consist of: (i) A 10.72-mile, 20-inch offshore gathering lateral extending from Brazos Block A–133A platform to the Brazos Block A–76 subsea tie-in, and (ii) a 30-mile, 20-inch offshore gathering lateral extending from the Brazos Block A–76 subsea tie-in to the Brazos Block 538 platform. Transco states that the abandonment of the CTGS West Facilities will have no impacts on the upstream shippers as the approximately 35,000 dekatherms per day that currently flows on these laterals will be re-routed to an existing parallel line. Transco estimates the cost of the abandonment of the CTGS West Facilities to be approximately $2.9 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Charlotte Hutson, Director Rates & Regulatory, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396, by telephone at (713) 215–4060, or by email at *charlotte.a.hutson@williams.com*.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of

environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time June 22, 2017.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11758 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER17–1732–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–06–01_Asset Registration Process Clean-up filing to be effective 8/1/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5119.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1733–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Attachment AE Revisions Regarding JOUs Registered Under Combined Resource Option to be effective 8/1/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5124.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1735–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Cancellation: Notice of Termination of Silicon Valley Power IA (SA 20) to be effective 7/31/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5169.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1737–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ICSA No. 3884; Queue No. X4–039 to be effective 5/30/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5205.

Comments Due: 5 p.m. ET 6/22/17.

Docket Numbers: ER17–1738–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) Rate Filing: Notice of Cancellation of Dairyland Interconnection and Interchange Agreement to be effective 7/30/2017.

Filed Date: 6/1/17.

Accession Number: 20170601–5221.

Comments Due: 5 p.m. ET 6/22/17.

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: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11756 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3472–023]

Aspinook Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3472–023.

c. *Date Filed:* April 27, 2017.

d. *Submitted By:* Aspinook Hydro, LLC (a subsidiary of Gravity Renewables, Inc.).

e. *Name of Project:* Wyre Wynd Hydroelectric Project.

f. *Location:* On the Quinebaug River, in New London and Windham Counties, Connecticut. No federal lands are occupied by the project works or are located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Jonathan Miller, Aspinook Hydro, LLC, c/o Gravity Renewables, Inc., 1401 Walnut St., Suite 220, Boulder, CO 80302; (303) 440–3378; email—*jonathan@gravityrenewables.com.*

i. *FERC Contact:* John Ramer at (202) 502–8969; or email at *john.ramer@ferc.gov.*

j. Aspinook Hydro, LLC filed a request to use the Traditional Licensing Process on April 27, 2017, and provided public notice of the request on May 6, 2017. In a letter dated June 1, 2017, the Director of the Division of Hydropower Licensing approved the request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the (New Hampshire and Maine) State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Aspinook Hydro, LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Aspinook Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for

inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3472–023. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2020.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11762 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14827–000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Lookout Pumped Storage Hydroelectric Project to be located in Somerset County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 44 acres and a storage capacity of 660 acre-feet at a surface elevation of approximately 2,850 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-filled dam and/or dike; (2) excavating a new lower reservoir with a surface area of 30 acres and a total storage capacity of 792 acre-feet at a surface elevation of 2,200 feet msl; (3) a new 3,500-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 35 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point at the Lookout Wind Farm; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from the nearby Wills Creek, including groundwater. The proposed project would have an annual generation of 128,372 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14827–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14827) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11765 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–028–000]

National Fuel Gas Supply Corporation; Notice of Availability of the Environmental Assessment for the Proposed Line QP, Line Q, and Queen Storage Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Line QP, Line Q, and Queen Storage Project (Project), proposed by National Fuel Gas Supply Corporation (National Fuel) in the above-referenced docket. National Fuel requests authorization to construct and operate facilities in Forest and Warren Counties, Pennsylvania. National Fuel would abandon capacity by sale a natural gas storage system and associated pipeline that is no longer needed by the company and would provide that capacity to other gathering system suppliers in Pennsylvania. Additionally, National Fuel proposes to replace a compromised portion of the pipeline associated with the storage system and install new pipeline to maintain National Fuel's distribution capability.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The United States Army Corps of Engineers, United States Department of Agriculture-Forest Service (USDA–FS), and the Pennsylvania Fish and Boat Commission participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The USDA–FS may adopt and use the EA to consider the issuance of a special use permit for the portion of the project on USDA–FS lands.

The Project includes the following facilities:

- Abandon by sale the existing Queen Storage Field and Queen Compressor Station, property interests related thereto, and approximately 5.5 miles of the 6-inch-diameter natural gas transmission pipeline (Line Q) from

Queen Compressor Station to a point just south of the Allegheny River in Limestone Township, Warren County, Pennsylvania;

• abandon in-place 0.18 mile of existing Line Q pipeline crossing the Allegheny River, with the exception of exposed portions that would be removed, and replace the crossing with a non-jurisdictional 12-inch-diameter natural gas transmission pipeline that would be sold to the future operator;

• install approximately 5 miles of new 4-inch-diameter natural gas transmission pipeline (Line QP) within the Line Q right-of-way; and

• construct a new regulator station and two service taps.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before July 1, 2017.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP16–028–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP16–28). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

[1] See the previous discussion on the methods for filing comments.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11757 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP17–811–000]

Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP; Notice of Complaint

Take notice that on June 1, 2017, pursuant to sections 5 and 16 of the Natural Gas Act (NGA), 15 U.S.C. 717d and 717o, and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or Commission), 18 CFR 385.206 (2016), Peregrine Oil & Gas II, LLC (Complainant) filed a formal complaint against Texas Eastern Transmission, LP (Respondent) alleging that, Respondent violated its service obligations under its tariff and section 4 of the NGA by failing to exercise due diligence to remedy recent outages on its FERC-certificated Line 41–A System, all as more fully explained in the complaint.

Complainant certifies that a copy of the complaint has been served on the Respondent and certain producers of natural gas in the affected area who may be expected to be affected by the complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 21, 2017.

Dated: June 1, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11767 Filed 6–6–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[9961–40–Region 2]

Proposed CERCLA Cost Recovery Settlement for the Puerto Rico Electric Power Authority Palo Seco Superfund Site, Toa Baja, Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with the Puerto Rico Electric Power Authority (''PREPA'') concerning the PREPA Palo Seco Superfund Site (''Site''), located between Ensenada de Boca Vieja and San Juan Bay in Toa Baja, Puerto Rico.

DATES: Comments must be submitted on or before July 7, 2017.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the PREPA Palo Seco Superfund Site, Toa Baja, Puerto Rico, Index No. II–CERCLA–02–2017–2014. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Margo Ludmer, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *ludmer.margo@epa.gov.* Telephone: 212–637–3187.

SUPPLEMENTARY INFORMATION: PREPA agrees to pay EPA $1,000,000.00, plus an additional sum for interest, in reimbursement of EPA's past response costs paid at or in connection with the Site. Payment is to be made in three installments within two years and thirty days of the effective date of the settlement agreement. The settlement includes a covenant by EPA not to sue or to take administrative action against PREPA pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work at the Site enumerated in the settlement agreement.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate.

EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: March 8, 2017.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2017–11461 Filed 6–6–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0798]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 7, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0798.

Title: FCC Application for Radio Service Authorization; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau.

Form Number: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals and households; Business or other for-profit entities; Not-for-profit institutions; and State, local or tribal government.

Number of Respondents and Responses: 253,320 respondents and 253,320 responses.

Estimated Time per Response: 0.5–1.25 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535 and 554.

Total Annual Burden: 222,055 hours.

Total Annual Cost: $71,306,250.

Privacy Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general there is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application form that is used for market-based and site-based licensing for wireless telecommunications services, including public safety licenses, which are filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains administrative information and a series of schedules used for filing technical and other information. This form is used to apply for a new license, to amend or withdraw a pending application, to modify or renew an existing license, cancel a license, request a duplicate license, submit required notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change), request a Special Temporary Authority or Developmental License. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction.

The data collected on FCC Form 601 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission use an FRN. On July 14, 2016, the Commission released a Report and Order in which it established the Upper Microwave Flexible Use Service authorizing mobile use in the 27.5–28.35 GHz, 37–38.6 GHz, and 38.6–40 GHz (39 GHz) bands, See Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 16–89, 31 FCC Rcd 8014 (2016). Of relevance to the information collection at issue here, the Commission established a process by which 39 GHz licensees can conduct a voluntary, pre-auction license swap or exchange which would give licensees the opportunity to consolidate their licensed blocks into larger tranches of contiguous spectrum thereby leaving more valuable empty contiguous channel blocks for the Commission to auction.

The Commission seeks approval for revisions to its currently approved collection of information under OMB Control Number 3060–0798 to permit the collection of the additional information for Commission licenses and permits, pursuant to the information collection requirements adopted by the Commission in the Spectrum Frontiers R&O, including the provisions authorizing voluntary channel swaps. We are proposing to revise schedule E of form 601 to allow licensees to file a modification to indicate active licenses and leases they are requesting authorization to swap. We do not anticipate that this revision will have any impact on the burden to complete the form. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 601 to revise FCC Form 601 accordingly.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–11807 Filed 6–6–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council; Notice of Public Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VI will hold its first meeting.

DATES: June 23, 2017.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp, Designated Federal Officer, (202) 418–1096 or via email to: *jeffery.goldthorp@fcc.gov.or* Suzon Cameron, Deputy Designated Federal Officer, (202) 418–1916 or via email to: *suzon.cameron@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on June 23, 2017, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW., Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC to improve the security, reliability, and interoperability of communications systems. On March 19, 2017, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for the CSRIC for a period of two years through March 18, 2019. The meeting on June 23, 2017, will be the first

meeting of the CSRIC under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Jeffery Goldthorp, CSRIC Designated Federal Officer, by email to *jeffery.goldthorp@fcc.gov* or U.S. Postal Service Mail to Jeffery Goldthorp, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW., Room 7–A325, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–11809 Filed 6–6–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination, 10393 CreekSide Bank, Woodstock, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10393 CreekSide Bank, Woodstock, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of CreekSide Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective June 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: June 2, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–11771 Filed 6–6–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10290 ISN Bank, Cherry Hill, New Jersey

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10290 ISN Bank, Cherry Hill, New Jersey (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of ISN Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective June 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: June 2, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–11770 Filed 6–6–17; 8:45 am]

BILLING CODE 6714–01–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 June 30, 2017.

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

1. *Van Buren Bancorporation ESOP,* Keosauqua, Iowa; to acquire an additional 55 percent, for a total of 100 percent of the voting shares of Van Buren Bancorporation, Keosauqua, Iowa, and thereby indirectly acquire additional voting shares of First Iowa State Bank, Keosauqua, Iowa and First Iowa State Bank, Albia, Iowa.

Board of Governors of the Federal Reserve System, June 1, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–11718 Filed 6–6–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 19, 2017.

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

1. *Thomas William Geiger, Maple Plain, Minnesota;* to acquire 10 percent or more of the voting shares of Heritage Bancshares Group, Inc., and thereby indirectly gain shares of Heritage Bank, National Association, both of Spicer, Minnesota.

Board of Governors of the Federal Reserve System, June 1, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–11717 Filed 6–6–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 21, 2017.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Kenneth Ray Lehman,* Arlington, Virginia; to acquire voting shares of CCF Holding Company, and thereby indirectly acquire voting shares of Heritage Bank, both of Jonesboro, Georgia.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Don O. Walsworth, Sr., individually and as trustee of various family trusts, Marceline, Missouri;* to acquire voting shares of Citizens Bancshares Co., Kansas City, Missouri, and thereby indirectly acquire Citizens Bank and Trust Company, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, June 2, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–11808 Filed 6–6–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 161–0116]

The Sherwin-Williams Company and The Valspar Corporation; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 27, 2017.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of The Sherwin-Williams Company and The Valspar Corporation; File No. 161–0116'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/swvalsparconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of The Sherwin-Williams Company and The Valspar Corporation; File No. 161–0116'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: James Abell (202–326–2289), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 26, 2017), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 27, 2017. Write ''In the Matter of The Sherwin-Williams Company and The Valspar Corporation; File No. 161–0116'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/swvalsparconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''In the Matter of The Sherwin-Williams Company and The Valspar Corporation; File No. 161–0116'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Web site at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Web site to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 27, 2017. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') with The Sherwin-Williams Company (''Sherwin-Williams''). The purpose of the Consent Agreement is to remedy the anticompetitive effects that would result from Sherwin-Williams's proposed acquisition of The Valspar Corporation (''Valspar''). Under the terms of the Consent Agreement, Sherwin-Williams must divest Valspar's North America Industrial Wood Coatings Business to Axalta Coating Systems Ltd. (''Axalta'') or another buyer approved by the Commission. The Consent Agreement provides the acquirer with the manufacturing plants and other tangible and intangible assets it needs to effectively compete in the market for the manufacture and sale of industrial wood coatings in North America. Sherwin-Williams must complete the divestiture within ten days of the closing of the acquisition.

On March 19, 2016, Sherwin-Williams agreed to acquire Valspar for approximately $11.3 billion, including the assumption of debt. This acquisition would concentrate most of the nearly $1 billion North American industrial wood coatings industry in two major competitors—the combined Sherwin-Williams/Valspar and Akzo Nobel N.V. (''Akzo Nobel''). On May 26, 2017, the Commission issued an administrative complaint alleging that the acquisition, if consummated, may substantially lessen competition in the market for the manufacture and sale of industrial wood coatings in North America in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become a part of the public record. After 30 days, the Commission will review the Consent Agreement and comments received, and decide whether it should withdraw, modify, or make the Consent Agreement final.

II. The Parties

Sherwin-Williams, headquartered in Cleveland, Ohio, is one of the top three manufacturers of industrial wood coatings in North America. Sherwin-Williams supplies industrial wood coatings to a wide variety of customers, including manufacturers of kitchen cabinets, building products, and furniture (''wood products manufacturers''). Sherwin-Williams operates three dedicated industrial wood coatings plants in North America.

Valspar is one of the top three manufactuers of industrial wood coatings in North America. Like Sherwin-Williams, Valspar supplies industrial wood coatings to some of the largest wood product manufacturers. Valspar operates two dedicated industrial wood coatings plants located in North America.

III. The Manufacture and Sale of Industrial Wood Coatings in North America

Absent the remedy, Sherwin-Williams's acquisition would harm competition in the manufacture and sale of industrial wood coatings in North America. Industrial wood coatings consist of a broad category of stains, topcoats, and sealants used during the manufacture of wood products such as kitchen cabinets, furniture, and building products.

The relevant product market does not include off-the-shelf interior and exterior wood stains sold to retail consumers or other substrates such as laminates, decorative foils, films, or veneers. Industrial wood coatings are designed for application on high-speed manufacturing lines in a factory setting and are tailored to meet wood products manufacturers' specifications. These specifications are demanding; wood product manufacturers require industrial wood coatings that perform well along a variety of dimensions, such as resistance to abrasion and moisture. Wood coatings sold to retail consumers are not formulated to meet these specifications and are thus not economically viable substitutes. Since wood product manufacturers rely on finished wood for its appearance and to meet the demand and preferences of their own customers, they likewise cannot easily or quickly substitute other finishing materials or technologies for their finished wood products. Attempting to do so would result in a high risk of significant sales losses for these manufacturers.

North America is the appropriate geographic market in which to evaluate the likely competitive effects of the proposed acquisition. Sherwin-Williams and Valspar sell industrial wood coatings to customers throughout North America. The relevant geographic market is no broader than North

America because freight costs and logistical challenges limit wood product manufacturers' ability to purchase significant volumes of industrial wood coatings from overseas.

Currently, three firms—Sherwin-Williams, Valspar, and Akzo Nobel—manufacture and sell most industrial wood coatings in North America. Collectively, these three firms control over 70 percent of the North American market for industrial wood coatings. The Commission often calculates the Herfindahl-Hirschman Index (''HHI'') to assess market concentration. Under the Federal Trade Commission and Department of Justice Horizontal Merger Guidelines, markets with an HHI above 2,500 are generally classified as ''highly concentrated,'' and acquisitions ''resulting in highly concentrated markets that involve an increase in the HHI of more than 200 points will be presumed to be likely to enhance market power.'' Absent the proposed remedy, the acquisition would increase the HHI by at least 900 points to over 2,700 for industrial wood coatings, resulting in a highly concentrated market.

IV. Effects of the Acquisition

Absent relief, the acquisition would combine two of the three leading industrial wood coatings suppliers and pose a significant risk of competitive harm. The industrial wood coatings industry is a mature, stable industry, with relatively low growth rates and high barriers to entry. The acquisition would eliminate substantial direct competition between Sherwin-Williams and Valspar. The acquisition also would increase the ease and likelihood of anticompetitive coordination between the only two remaining major suppliers. Thus, the acquisition likely would result in higher prices and a reduction in services and innovation to customers.

V. Entry

Entry into the market for the manufacture and sale of industrial wood coatings would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the likely competitive harm from the acquisition. The industrial wood coatings industry in North America enjoys significant barriers to entry and expansion including the high cost of building industrial wood coatings plants, the need for substantial technological and manufacturing expertise, and the significant on-site technical support requirements of large customers. For these reasons, entry by a new market participant or expansion by an existing one, would not deter the likely anticompetitive effects from the acquisition.

VI. The Consent Agreement

The proposed Consent Agreement remedies the competitive concerns raised by the acquisition by requiring Sherwin-Williams to divest Valspar's North America Industrial Wood Coatings Business to Axalta or another buyer approved by the Commission. In addition, the Consent Agreement requires Sherwin-Williams to transfer the customer contracts currently serviced by Valspar's Industrial Wood Coatings Business to the buyer.

Under the proposed Consent Agreement, Sherwin-Williams will divest Valspar's industrial wood coatings plants located at High Point, North Carolina and Cornwall, Ontario. In addition, Sherwin-Williams will divest the research and development facilities, warehouses, and testing facilities of Valspar's Industrial Wood Coatings Business. Sherwin-Williams will also divest intellectual property, inventory, accounts receivable, government licenses and permits, and business records. The Consent Agreement limits Sherwin-Williams's use of, and access to, confidential business information pertaining to the divestiture assets.

Axalta is one of the leading suppliers of industrial coatings to large OEMs in the automotive and general industrial markets and is well positioned to operate these assets as an effective competitor. Through the proposed Consent Agreement, Axalta will become one of the leading North American manufacturers of industrial wood coatings. With the divested assets, Axalta will be able to replicate Valspar's position in the market today. It will own plants capable of manufacturing a broad range of industrial wood coatings as well as the other assets necessary to compete successfully in this market. Axalta's presence will preserve the three-way competition that currently exists in the relevant markets and moderate the potential for unilateral or coordinated effects.

Sherwin-Williams must complete the divestiture within ten days of the closing of the acquisition. A Monitor will monitor Sherwin-Williams' compliance with the obligations set forth in the Order. If Sherwin-Williams does not fully comply with the divestiture and requirements of the Order, the Commission may appoint a Divestiture Trustee to divest Valspar's North America Industrial Wood Coatings Business and perform Sherwin-Williams' other obligations consistent with the Order.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and is not intended to constitute an official interpretation of the proposed Decision and Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–11733 Filed 6–6–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Secondary Review

This is to announce the cancelation of a meeting, Research Using Linked Data to Understand Motor Vehicle Injury Among Older Adults, (FOA), CE17–001, and Development and Evaluation of Sports Concussion Prevention Strategies (FOA) CE17–002, secondary review.

SUMMARY: This meeting was announced in the **Federal Register** on May 15, 2017, Volume 82, Number 92, pages 22335 and 22336. This meeting is canceled in its entirety.

CONTACT PERSON FOR MORE INFORMATION: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE., Mailstop F–63, Atlanta, Georgia 30341, Telephone (770) 488–1430.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–11814 Filed 6–6–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2732]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this meeting.

DATES: The public meeting will be held on July 13, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions, including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–2732. The docket will close on July 10, 2017. Submit either electronic or written comments on this public meeting by July 10, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 10, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 10, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 26, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–2732 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jay R. Fajiculay, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: During the morning session, the committee will discuss biologics license application (BLA) 761028 for ABP 215, a proposed biosimilar to Genentech/Roche's AVASTIN (bevacizumab), submitted by Amgen Inc. The proposed indications/uses for this product are: (1) For the first- or second-line treatment of patients with metastatic carcinoma of the colon or rectum in combination with intravenous 5-fluorouracil-based chemotherapy; (2) in combination with fluoropyrimidine-irinotecan- or fluoropyrimidine-oxaliplatin-based chemotherapy, for the second-line treatment of patients with metastatic colorectal cancer who have progressed on a first-line ABP 215-containing regimen; (3) for the first-line treatment of unresectable, locally advanced, recurrent or metastatic non-squamous, non-small cell lung cancer in combination with carboplatin and paclitaxel; (4) for the treatment of glioblastoma with progressive disease in adult patients following prior therapy as a single agent; (5) for the treatment of metastatic renal cell carcinoma in combination with interferon alfa; and (6) in combination with paclitaxel and cisplatin or paclitaxel and topotecan for the treatment of persistent, recurrent, or metastatic carcinoma of the cervix.

During the afternoon session, the committee will discuss BLA 761074 for MYL–1401O, a proposed biosimilar to Genentech Inc.'s HERCEPTIN (trastuzumab), submitted by Mylan GmbH. The proposed indications/uses for this product are: (1) For adjuvant treatment of HER2 overexpressing node positive or node negative (ER/PR negative or with one high risk feature) breast cancer; (a) as part of a treatment regimen consisting of doxorubicin, cyclophosphamide, and either paclitaxel or docetaxel; (b) with docetaxel and carboplatin; or (c) as a single agent following multimodality anthracycline based therapy; (2) in combination with paclitaxel for first-line treatment of HER2-overexpressing metastatic breast cancer; (3) as a single agent for treatment of HER2-overexpressing breast cancer in patients who have received one or more chemotherapy regimens for metastatic disease; and (4) in combination with cisplatin and capecitabine or 5-fluorouracil, for the treatment of patients with HER2 overexpressing metastatic gastric or gastroesophageal junction adenocarcinoma who have not received prior treatment for metastatic disease.[1]

[1] This indication is protected by orphan drug exclusivity expiring on October 20, 2017. See the Orphan Drug Designations and Approvals database at *http://www.accessdata.fda.gov/scripts/opdlisting/oopd/index.cfm.*

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the docket (see the **ADDRESSES** section) on or before June 26, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 10:45 a.m. to 11:15 a.m., and 3:45 p.m. to 4:15 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 16, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 19, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations due to a disability, please contact Jay R. Fajiculay at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11819 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0501]

Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Disclosure and Recordkeeping Requirements for Reportable Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's third party disclosure and recordkeeping requirements for reportable food.

DATES: Submit either electronic or written comments on the collection of information by August 7, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 7, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 7, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2009–N–0501 for ''Third Party Disclosure and Recordkeeping Requirements for Reportable Food.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Third Party Disclosure and Recordkeeping Requirements for Reportable Food—21 U.S.C. 350f; OMB Control Number 0910–0643—Extension

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–85), requires the establishment of a Reportable Food Registry (the Registry) by which instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials. Section 417 of the FD&C Act (21 U.S.C. 350f) defines ''reportable food'' as an ''article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.'' (Section 417(a)(2) of the FD&C Act.) We believe that the most efficient and cost effective means to implement the Registry is by utilizing our electronic Safety Reporting Portal. The information collection provisions associated with the submission of reportable food reports has been approved under OMB control number 0910–0643.

In conjunction with the reportable foods requirements, section 417 of the FD&C Act also establishes third party disclosure and recordkeeping burdens. Specifically, we may require the responsible party to notify the immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (section 417(d)(6)(B)(i) to (ii) of the FD&C Act). Similarly, we may also require the responsible party that is notified (*i.e.,* the immediate

previous source and/or immediate subsequent recipient) to notify their own immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (section 417(d)(7)(C)(i) to (ii) of the FD&C Act).

Notification to the immediate previous source(s) and immediate subsequent recipient(s) of the article of food may be accomplished by electronic communication methods such as email, fax, or text messaging or by telegrams, mailgrams, or first-class letters. Notification may also be accomplished by telephone call or other personal contacts but we recommend that such notifications also be confirmed by one of the previous methods and/or documented in an appropriate manner. We may require that the notification include any or all of the following data elements: (1) The date on which the article of food was determined to be a reportable food; (2) a description of the article of food including the quantity or amount; (3) the extent and nature of the adulteration; (4) the results of any investigation of the cause of the adulteration if it may have originated with the responsible party, if known; (5) the disposition of the article of food, when known; (6) product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the article of food; (7) contact information for the responsible party; (8) contact information for parties directly linked in the supply chain and notified under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act, as applicable; (9) the information required by FDA to be included in the notification provided by the responsible party involved under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act or required to report under section 417(d)(7)(A) of the FD&C Act; and (10) the unique number described in section 417(d)(4) of the FD&C Act (section 417(d)(6)(B)(iii)(I), (d)(7)(C)(iii)(I), and (e) of the FD&C Act). We may also require that the notification provides information about the actions that the recipient of the notification will perform and/or any other information we may require (section 417(d)(6)(B)(iii)(II) and (III), (d)(7)(C)(iii)(II) and (III) of the FD&C Act).

Section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods for a period of 2 years.

The congressionally identified purpose of the Registry is to provide ''a reliable mechanism to track patterns of adulteration in food [which] would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health'' (FDAAA, section 1005(a)(4)). The reporting and recordkeeping requirements described previously are designed to enable FDA to quickly identify and track an article of food (other than infant formula) for which there is a reasonable probability that the use of or exposure to such article of food will cause serious adverse health consequences or death to humans or animals. We use the information collected under these regulations to help ensure that such products are quickly and efficiently removed from the market.

As required under section 1005(f) of FDAAA and to assist industry, we have issued the guidance document entitled, ''Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007,'' which is available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm180761.htm*. The guidance contains questions and answers relating to the requirements under section 417 of the FD&C Act, including: (1) How, when and where to submit reports to FDA; (2) who is required to submit reports to FDA; (3) what is required to be submitted to FDA; and (4) what may be required when providing notifications to other persons in the supply chain of an article of food. The guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in questions 20 and 21 of the guidance have been approved under OMB control number 0910–0249.

Description of Respondents: Mandatory respondents to this collection of information are the owners, operators, or agents in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States (''responsible parties'') who have information on a reportable food. Voluntary respondents to this collection of information are Federal, State, and local public health officials who have information on a reportable food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/Section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Notifying immediate previous source of the article of food under section 417(d)(6)(B)(i) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(6)(B)(ii) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate previous source of the article of food under section 417(d)(7)(C)(i) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(7)(C)(ii) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Total	.....	.....	.....	.....	2,880

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Third Party Disclosure: We estimate that approximately 1,200 reportable food events with mandatory reporters will occur annually. Based on past FDA experiences, we estimate that we could receive 200 to 1,200 ''reportable'' food

reports annually from 200 to 1,200 mandatory and voluntary users of the electronic reporting system. We utilized the upper-bound estimate of 1,200 for these calculations.

We estimate that notifying the immediate previous source(s) will take 0.6 hours per reportable food and notifying the immediate subsequent recipient(s) will take 0.6 hours per reportable food. We also estimate that it will take 0.6 hours for the immediate previous source and/or the immediate subsequent recipient to also notify their immediate previous source(s) and/or immediate subsequent recipient(s). The Agency bases its estimate on its experience with mandatory and voluntary reports submitted to FDA.

Although it is not mandatory under FDAAA, section 1005 that responsible persons notify the sources and recipients of instances of reportable food, for purposes of the burden estimate we are assuming FDA would exercise its authority and require such notifications in all such instances for mandatory reporters. This notification burden will not affect voluntary reporters of reportable food events. Therefore, we estimate that the total burden of notifying the immediate previous source(s) and immediate subsequent recipient(s) under section 417(d)(6)(B)(i) and (ii), (d)(7)(C)(i) and (ii) of the FD&C Act for 1,200 reportable foods will be 2,880 hours annually (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours). This annual burden is shown in table 1.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Maintenance of reportable food records under section 417(g) of the FD&C Act—mandatory reports.	1,200	1	1,200	0.25 (15 minutes)	300
Maintenance of reportable food records under section 417(g) of the FD&C Act—voluntary reports.	4	1	4	0.25 (15 minutes)	1
Total	.....	.....	.....	.....	301

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Recordkeeping: As noted previously, section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods reports and notifications under section 417 of the FD&C Act for a period of 2 years. Based on past FDA experiences, we estimate that each mandatory report and its associated notifications will require 30 minutes of recordkeeping for the 2-year period, or 15 minutes per record per year. The annual recordkeeping burden for mandatory reportable food reports and their associated notifications is thus estimated to be 300 hours (1,200 × 0.25 hours).

We do not expect that records will always be kept in relation to voluntary reportable food reports. Therefore, we estimate that records will be kept for four voluntary reports we expect to receive annually. The recordkeeping burden associated with voluntary reports is thus estimated to be 1 hour annually (4 × 0.25 hours). The estimated total annual recordkeeping burden will be 301 hours annually (1,200 × 0.25 hours) + (4 × 0.25 hours). This annual burden is shown in table 2.

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11821 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2734]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The public meeting will be held on July 12, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–2734. The docket will close on July 10, 2017. Submit either electronic or written comments on this public meeting by July 10, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 10, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight eastern time, July 10, 2017. Comments received by mail/hand delivery/courier for written/paper submissions will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 26, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to

https://www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–2734 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss biologics license application (BLA) 125646, for tisagenlecleucel-T suspension for intravenous use. The application was submitted by Novartis Pharmaceuticals Corp. The proposed indication (use) for this product is for the treatment of pediatric and young adult patients 3 to 25 years of age with relapsed/refractory B-cell acute lymphoblastic leukemia (ALL).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before June 26, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m. and 3:30 p.m. to 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 16, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 19, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations due to a disability, please contact Jennifer Shepherd at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11818 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2094]

Developing Rabies Monoclonal Antibody Products as a Component of Rabies Post-Exposure Prophylaxis; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public workshop regarding development of rabies monoclonal antibody products to be used in conjunction with licensed rabies vaccine as part of a rabies post-exposure prophylaxis (PEP) regimen. This public workshop is intended to provide information for, and gain perspective from, health care providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders on various aspects of development efforts pertaining to animal models, laboratory assays, and clinical trials.

DATES: The public workshop will be held on July 17, 2017, from 8:30 a.m. to 5 p.m. Submit either electronic or written comments on this public workshop on or before July 31, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information. The workshop draft Agenda will be made available at: *http://www.fda.gov/Drugs/NewsEvents/ucm540832.htm* prior to the meeting.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 31, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 31, 2017. Comments received by mail/hand delivery/courier (for written paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–2094 for ''Developing Rabies Monoclonal Antibody Products as a Component of Rabies Post-Exposure Prophylaxis.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Benner and/or Jessica Barnes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6221, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop regarding development of rabies monoclonal antibody products to be used in conjunction with a licensed rabies vaccine as part of rabies PEP. Rabies immunoglobulin, in combination with rabies vaccine, is currently recommended for rabies PEP following suspected or proven rabies exposure. Rabies monoclonal antibody products may offer a potential alternative to rabies immunoglobulin as a component of rabies PEP.

II. Topics for Discussion at the Public Workshop

FDA is conducting this workshop to discuss the scientific work needed to advance the development of rabies monoclonal antibodies targeting rabies viruses for use in a PEP regimen. Discussions are planned around the following topics:

- Rabies epidemiology and vectors
- Current rabies PEP standard of care
- Scientific challenges of assessing the likely effects of rabies monoclonal antibodies
- Potential utility of animal models and laboratory assays in rabies monoclonal antibody development
- Clinical trial design challenges related to the scientific evaluation of rabies monoclonal antibody efficacy as a component of rabies PEP
- Ethical considerations regarding potential clinical trial designs

The Agency encourages health care providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders to attend this public workshop.

III. Participating in the Public Workshop

Registration: Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by July 12, 2017, midnight Eastern Time. To register, please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone to *RabiesWorkshop2017@fda.hhs.gov.* Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Jessica Barnes or Lori Benner (see **FOR FURTHER INFORMATION CONTACT**) no later than July 12, 2017.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by July 11, 2017. All requests to make oral presentations must be received by July 10, 2017, midnight Eastern Time. If selected for presentation, any presentation materials must be emailed to *RabiesWorkshop2017@fda.hhs.gov* no later than July 13, 2017. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the public workshop: This public workshop will also be Webcast at the following Web site: *https://collaboration.fda.gov/r6811zievzz/.*

If you have never attended a Connect Pro event before, please test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A link to the transcript will also be available on the Internet at *http://www.fda.gov/Drugs/NewsEvents/ucm540832.htm* approximately 45 days after the workshop.

Dated: May 31, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11820 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2730]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The public meeting will be held on July 11, 2017, from 12:30 p.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–2730. The docket will close on July 10, 2017. Submit either electronic or written comments on this public meeting by July 10, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 10, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 10, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 26, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–2730 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss biologics license application (BLA) 761060, MYLOTARG (gemtuzumab ozogamicin) for intravenous use, submitted by Wyeth Pharmaceuticals Inc., a subsidiary of Pfizer Inc. The proposed indication (use) for this product is in combination therapy with daunorubicin (DNR) and cytarabine (AraC) for the treatment of adult patients with previously untreated, de novo acute myeloid leukemia (AML).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before June 26, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 3 p.m. and 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 16, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 19, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations

due to a disability, please contact Jennifer Shepherd at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11817 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0019]

Agency Information Collection Activities; Proposed Collection; Comment Request; Customer/Partner Service Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on voluntary customer satisfaction service surveys to implement Executive Order 12862.

DATES: Submit either electronic or written comments on the collection of information by August 7, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 7, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 7, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–N–0019 for ''Customer/Partner Service Surveys.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information,

including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Customer/Partner Service Surveys; OMB Control Number 0910–0360—Extension

Under section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393), FDA is authorized to conduct research and public information programs about regulated products and responsibilities of the Agency. Executive Order 12862, entitled, ''Setting Customer Service Standard,'' directs Federal Agencies that ''provide significant services directly to the public'' to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' FDA is seeking OMB clearance to conduct a series of surveys to implement Executive Order 12862. Participation in the surveys is voluntary. This request covers customer/partner service surveys of regulated entities, such as food processors; cosmetic drug, biologic and medical device manufacturers; consumers; and health professionals. The request also covers ''partner'' (State and local governments) customer service surveys.

FDA will use the information from these surveys to identify strengths and weaknesses in service to customers/partners and to make improvements. The surveys will measure timeliness, appropriateness and accuracy of information, courtesy and problem resolution in the context of individual programs.

FDA estimates conducting 15 customer/partner service surveys per year, each requiring an average of 15 minutes for review and completion. We estimate respondents to these surveys to be between 100 and 20,000 customers. Some of these surveys will be repeats of earlier surveys for purposes of monitoring customer/partner service and developing long-term data.

FDA estimates the burden of this collection of information as follows:

Type of survey	Number of respondents	Annual frequency per response	Hours per response	Total hours
Mail, telephone, web-based	55,000	1	0.25 (15 minutes)	13,750

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11822 Filed 6–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Client-Level Data Reporting System, OMB No. 0915–0323—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 7, 2017.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Client-Level Data Reporting System OMB No. 0915–0323—Revision.

Abstract: The Ryan White HIV/AIDS Program's (RWHAP) client-level data reporting system, entitled the RWHAP Services Report or the Ryan White Services Report (RSR), is designed to collect information from grant recipients, as well as their subcontracted service providers, funded under Parts A, B, C, and D of RWHAP statute. RWHAP, authorized under Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, awards funding to recipients to provide efficient and effective health care and support services, with an emphasis on providing life-saving and life-extending services for people living with HIV across the country. HRSA is streamlining the data collection forms by making the following changes:

Within Client Demographics:

- Deletion of variable ID 8, ''Self-Reported Transgender Status''.
- Addition of ''Transgender Male to Female'', ''Transgender Female to Male'', and ''Transgender Other'' as response options for variable ID 7, ''Self-Reported Gender''.

Within Services:

- Deletion of ''Parts A and B'' from the ''Early Intervention Services'' response option for variable ID 19, ''Core Medical Services Delivered''. Deletion of ''Legal Services'' and ''Permanency Planning'', and the additional of ''Other Professional Services'' response options for variable ID 35, ''Support Services''.

Within Clinical Information:

- Variable ID 47, ''Date of First HIV Outpatient/Ambulatory Health Care Visit'' will be renamed ''Date of First HIV Outpatient/Ambulatory Health Services Visit''.
- Variable ID 48, ''Dates of All Outpatient Ambulatory Health Care Visits'' will be renamed ''Dates of All Outpatient/Ambulatory Health Services Visits''.
- Variable ID 74, ''OAMC Link Date'' will be renamed ''OAHS Link Date''.

Need and Proposed Use of the Information: RWHAP's statute specifies HRSA's responsibility to administer grant funds, allocate funds, evaluate programs for the populations served, and improve efficiency and effectiveness through quality HIV care and treatment for patients. Accurate records of the providers receiving Ryan White HIV/AIDS Program funding, the clients served, and services provided continue to be critical for the implementation of the statute.

The RSR provides data on the characteristics of RWHAP-funded grant recipients, their contracted service providers, and the clients served. The RSR is intended to support clinical quality management, performance measurement, service delivery, and client monitoring at the systems and client levels. The reporting system consists of two online data forms, the Recipient Report and the Service Provider Report, as well as a data file containing the client-level data elements. Data are submitted annually. The statute specifies the importance of grant recipient accountability and linking performance to the budget. The RSR is used to ensure compliance with the statute, evaluate the progress of programs, monitor grant recipient and provider performance, and inform annual reports to Congress.

Information collected through the RSR is critical for HRSA, state, city, and local grant recipients, and individual providers to assess the status of existing HIV-related service delivery systems, investigate trends in service utilization, and health outcomes. Minor revisions to the RSR are being made to streamline data collection and reduce reporting burden.

The removal of variable ID 8, ''Self-Reported Transgender Status'', will streamline reporting of client demographic data. With the additional response options for variable ID 7, ''Self-Reported Gender''—''Transgender Male to Female'', ''Transgender Female to Male'', and ''Transgender Other'', HRSA will improve the overall quality of demographic data that are reported, which is essential for program monitoring. The additions and deletions of response options for variable IDs 19 and 35, as well as the renaming of variable IDs 47, 48, and 74, will allow HRSA to align its data collection efforts with recent program policy notices (*e.g.* Policy Clarification Notice 16–02, Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds) that incorporate both HHS regulations and program specific requirements set forth in the RWHAP statute.

Likely Respondents: Ryan White HIV/AIDS Program Part A, Part B, Part C, and Part D recipients and their contracted service providers.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

The total burden for this revised form has decreased by 6,416 hours due to the deletion of several data elements and an estimated decrease in the number of respondents. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Grantee Report	595	1	595	7	4,165
Provider Report	1793	1	1793	17	30,481
Client Report	1312	1	1312	67	87,904
Total	3700		3700		122,550

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–11716 Filed 6–6–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Reconciliation Tool for the Teaching Health Center Graduate Medical Education Program, OMB No. 0915–0342—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 7, 2017.

ADDRESSES: Submit your comments, including the Information Collection

Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Reconciliation Tool for the Teaching Health Center Graduate Medical Education Program, OMB No. 0915–0342—Extension

Abstract: The Teaching Health Center Graduate Medical Education (THCGME) program, as authorized by section 340H of the Public Health Service (PHS) Act, awards payment for both direct and indirect expenses to support training for primary care residents in community based ambulatory patient care settings. Direct medical expenses payments are designed to compensate eligible teaching health centers for those expenses directly associated with resident training, while indirect medical expenses payments are intended to compensate for the additional costs of training residents in such programs.

Need and Proposed Use of the Information: THCGME program payments are prospective payments, and the statute provides for a reconciliation process, through which overpayments may be recouped and underpayments may be adjusted at the end of the fiscal year. This data collection instrument gathers information relating to the number of resident full-time equivalents (FTEs) in THC training programs in order to reconcile payments for both direct and indirect expenses.

Likely Respondents: The likely responders to the THCGME Reconciliation Tool are THCGME program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
THCGME Reconciliation Tool	59	1	59	2	118
Total	59		59		118

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–11714 Filed 6–6–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 materials, 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 Library of Medicine Special Emphasis Panel; R01/R21/K01 Conflicts.

Date: July 20, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine/Center for Scientific Review, 6701 Rockledge Drive, Room 3042, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2017–11724 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Cancellation of Meeting

Notice is hereby given of the cancellation of the PubMed Central National Advisory Committee, June 21, 2017, 2:00 p.m. to June 21, 2017, 4:00 p.m., National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892 which was published on March 28, 2017, 82 FR 58, Page 15362.

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11720 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Board of Scientific Counselors, National Center for Biotechnology Information.

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 as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL LIBRARY OF MEDICINE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Center for Biotechnology Information.

Date: November 14, 2017.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Open: 2:00 p.m. to 3:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Jim Ostell, Ph.D., Acting Director, National Center for Biotechnology Information, National Library of Medicine, Building 45, Room 5AN44A, Bethesda, MD 20892, 301–435–5978, *ostell@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11723 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Library of Medicine Special Emphasis Panel, July 7, 2017, 9:00 a.m. to 6:00 p.m., National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817 which was published in the **Federal Register** on May 22, 2017, 82 FR 97, Page 23280.

The meeting of the Special Emphasis Panel will be held as both an in-person meeting and a telephone review meeting. The meeting is closed to the public.

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11719 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Literature Selection Technical Review Committee.

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 portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 26–27, 2017.

Open: October 26, 2017, 8:30 a.m. to 10:00 a.m.

Agenda: Administrative.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 26, 2017, 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 27, 2017, 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Joyce Backus, M.S.L.S., Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2W04A, Bethesda, MD 20892, 301–496–3497, *backusj@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11725 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine. 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 the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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: Board of Regents of the National Library of Medicine; Extramural Programs Subcommittee.

Date: September 12, 2017.

Closed: 7:45 a.m. to 8:45 a.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Christine Ireland, Committee Management Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, 301–594–4929, *irelanc@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.

Date: September 12–13, 2017.

Open: September 12, 2017, 9:00 a.m. to 4:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 12, 2017, 4:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Open: September 13, 2017, 9:00 a.m. to 12:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Christine Ireland, Committee Management Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, 301–594–4929, *irelanc@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html,* where an agenda and any additional information for the meeting will be posted when available. This meeting will be broadcast to the public, and available for at viewing at *http://videocast.nih.gov* on September 12–13, 2017.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11722 Filed 6–6–17; 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 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44).

Date: June 28, 2017.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G51, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR PHASE II Clinical Trial Implementation Cooperative Agreement (U44).

Date: June 29, 2017.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G51, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@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: June 1, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11712 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

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 as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL LIBRARY OF MEDICINE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

Date: September 7–8, 2017.

Open: September 7, 2017, 9:00 a.m. to 12:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 7, 2017, 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications, performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 8, 2017, 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate personal qualifications, performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S707, Bethesda, MD 20892, 301–827–4385, *ksteely@mail.nih.gov*.

Open: September 8, 2017, 10:00 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S707, Bethesda, MD 20892, 301–827–4385, *ksteely@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 1, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11721 Filed 6–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Surgical and Isolation Gowns

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain surgical and isolation gowns. Based upon the facts presented, CBP has concluded in the final determination that the Dominican Republic is the country of origin of the surgical and isolation gowns for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 31, 2017. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within July 7, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202–325–0046).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 31, 2017, pursuant to Subpart B of part 177, Customs and Border Protection (CBP) Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain surgical and isolation gowns which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H284665, was issued at the request of Global Resources International, Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, certain surgical and isolation gowns which are produced in the Dominican Republic from foreign nonwoven fabric by cutting the fabric into components and assembly of those components in the Dominican Republic are products of the Dominican Republic for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: May 31, 2017.

Alice A. Kipel,

Executive Director, Regulations and Rulings, Office of Trade.

Attachment

HQ H284665

May 31, 2017

OT:RR:CTF:VS H284665 CMR

CATEGORY: Origin

Ms. Christi Roos, LCB
M–PACT Solutions
P.O. Box 30209
Memphis, TN 38118

RE: Government Procurement; Final Determination; Surgical and Isolation Gowns

Dear Ms. Roos:

This ruling is in response to your request of March 20, 2017, on behalf of your client, Global Resources International, Inc., for a country of origin determination for certain surgical and isolation gowns for purposes of government procurement under Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. 2511 *et seq.*). Customs and Border Protection (CBP) issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American''

restrictions in U.S. law or for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain surgical and isolation gowns. As an importer of this merchandise, Global Resources International, Inc., is a party-at-interest within the meaning of 19 CFR 177.23(a) and is entitled to request this final determination.

FACTS:

The surgical and isolation gowns at issue were the subject of New York Ruling Letter (NY) N283263, dated March 7, 2017, which determined that these gowns are classified in subheading 6210.10.50, Harmonized Tariff Schedule of the United States (HTSUS). Samples of each type of gown were submitted to CBP and are described in NY N283263 as follows:

The submitted sample, isolation gown, is constructed from 96% spunbonded polypropylene nonwoven fabric and 4% cotton knit fabric. The gown has a full back opening, long sleeves and a tie at the waist in the front of the gown that extends around the waist to fasten at the back. The garment will be used in the medical industry.

The submitted sample, surgical gown, is constructed from 100% spunbonded polypropylene nonwoven fabric. The surgical gown has a hook and loop closure at the neck, long sleeves with knit cuffs and a full back opening. There is also a tie at the waist in the front of the gown that extends around the waist to fasten at the back. The garment will be used in the medical industry.

Based on information from your initial ruling request, dated December 2, 2016, your supplemental submission, dated January 30, 2017, NY N283263, and responses via email to our questions, the manufacturing process is as follows:

- Rolled nonwoven fabric from China, Vietnam, or India is shipped to the Dominican Republic.
- All other components including thread and cotton fabric for the cuffs will be manufactured in the Dominican Republic.

In the Dominican Republic:

- The nonwoven fabric is laid on a cutting table and cut to specification using a cutting template.
- Components are cut from the fabric—body, left arm, right arm, ties.
- Arms are ultra-sonically welded to the body fabric or sewn.
- In the case of the isolation gowns, the knit cuffs are sewn to the arms.
- The gowns are folded, packaged and shipped to the United States.

ISSUE:

What is the country of origin of the surgical and isolation gowns described herein for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.,* which implements Title III, Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–2518), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

The rule of origin set forth in 19 U.S.C. 2518(4)(B) states:

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a) defining ''country of origin'' in identical terms.

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of Subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 CFR 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1).

With regard to the articles at issue, your request involves determining whether the articles are products of the Dominican Republic. The Federal Acquisition Regulations define ''designated country'' as including a Free Trade Agreement (FTA) country, and includes the Dominican Republic in the list of FTA countries. Further, the regulations define ''Free Trade Agreement country end product'' to mean, in relevant part, an article that:

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. . . .

See 48 CFR 25.003.

As the articles at issue are not wholly the growth, product, or manufacture of the Dominican Republic, the substantial transformation standard as set forth in 19 U.S.C. 2518(4)(B) applies. As the articles at issue are textile products, the rules of origin for textile products for purposes of the customs laws and the administration of quantitative restrictions apply.

In NY N283263, it was determined that the surgical and isolation gowns are classified in subheading 6210.10.50, HTSUS, and are not wholly obtained or produced in the Dominican Republic, their origin cannot be determined by application of 19 CFR 102.21(c)(1), *i.e.,* wholly obtained or produced rule, and resort must be made to 19 CFR 102.21(c)(2), which provides that the origin of a good is the country ''in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of [102.21].'' Section 102.21(e) provides, in pertinent part, for goods classifiable in heading 6210:

(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

* * * * *

The nonwoven fabric is cut in the Dominican Republic into component parts, *i.e.,* the body, left arm, right arm and ties. These components are wholly assembled in the Dominican Republic into finished gowns. In the case of the isolation gowns, another component, *i.e.,* the rib knit cuffs, are included in the assembly process. As the gowns are wholly assembled in the Dominican Republic, pursuant to 19 CFR 102.21(c)(2), the country of origin of the gowns is the Dominican Republic for U.S. Government procurement purposes.

HOLDING:

Based on the facts and analysis set forth above, for U.S. Government procurement purposes, the country of origin of the surgical and isolation gowns at issue is the Dominican Republic.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Alice A. Kipel, Executive Director
Regulations and Rulings
Office of Trade

[FR Doc. 2017–11839 Filed 6–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2017–0016]

Request for Applicants for Appointment to the Commercial Customs Operations Advisory Committee (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee management; request for applicants for appointment to the COAC.

SUMMARY: U.S. Customs and Border Protection (CBP) is requesting that individuals who are interested in

serving on the Commercial Customs Operations Advisory Committee (COAC) apply for appointment. COAC provides advice and makes recommendations to the Secretaries of the Department of the Treasury (Treasury) and Department of Homeland Security (DHS) on all matters involving the commercial operations of CBP and related functions.

DATES: Applications for membership should be submitted to CBP at the address below on or before July 24, 2017.

ADDRESSES: If you wish to apply for membership, your application should be submitted by one of the following means:

- *Email: Traderelations@dhs.gov*
- *Fax:* 202–325–4290
- *Mail:* Ms. Florence Constant-Gibson, International Trade Liaison, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Florence Constant-Gibson, International Trade Liaison, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229. Email: *florence.v.constant-gibson.cbp.dhs.gov*; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: The Trade Facilitation and Trade Enforcement Act of 2015 re-established the COAC. The COAC is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. The COAC shall advise the Secretaries of the Treasury and DHS on the commercial operations of CBP and related Treasury and DHS functions. In accordance with Section 109 of the Trade Facilitation and Trade Enforcement Act, the COAC shall:

(1) Advise the Secretaries of the Treasury and DHS on all matters involving the commercial operations of CBP, including advising with respect to significant changes that are proposed with respect to regulations, policies, or practices of CBP;

(2) provide recommendations to the Secretaries of the Treasury and DHS on improvements to the commercial operations of CBP;

(3) collaborate in developing the agenda for COAC meetings; and

(4) perform such other functions relating to the commercial operations of CBP as prescribed by law or as the Secretaries of the Treasury and DHS jointly direct.

Balanced Membership Plans

The COAC consists of 20 members who are selected from representatives of the trade or transportation community served by CBP or others who are directly affected by CBP commercial operations and related functions. The members shall represent the interests of individuals and firms affected by the commercial operations of CBP, and without regard to political affiliation. The members will be appointed by the Secretaries of the Treasury and DHS from candidates recommended by the Commissioner of CBP. In addition, members will represent major regions of the country.

COAC Meetings

The COAC meets at least once each quarter, although additional meetings may be scheduled. Generally, every other meeting of the COAC may be held outside of Washington, DC, usually at a CBP port of entry. The members are not reimbursed for travel or per diem.

COAC Membership

Membership on the COAC is personal to the appointee and a member may not send an alternate to represent him or her at a COAC meeting. Appointees will serve a one to three year term of office that will be concurrent with the duration of the charter. Regular attendance is essential; a member who is absent for two consecutive meetings, or does not participate in the committee's work, may be recommended for replacement on the COAC.

Members who are currently serving on the COAC are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met the attendance requirements. A new application letter (see **ADDRESSES** above) is required, but it may incorporate by reference materials previously filed (please attach courtesy copies). Members will not be considered Special Government Employees and will not be paid compensation by the Federal Government for their representative services with respect to the COAC.

Application for COAC Appointment: Any interested person wishing to serve on the COAC must provide the following:

- Statement of interest and reasons for application;
- Complete professional resume;
- Home address and telephone number;
- Work address, telephone number, and email address;
- Statement of the industry you represent; and
- Statement agreeing to submit to pre-appointment background and tax checks (mandatory).

However, a national security clearance is not required for the position. DHS does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Dated: June 2, 2017.

Kevin K. McAleenan,

Acting Commissioner.

[FR Doc. 2017–11840 Filed 6–6–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC02000 L14400000.ER0000; 241A; MO#4500105455]

Notice of Temporary Closures of Public Land in Washoe County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, certain public land near Stead, Nevada, will be temporarily closed to all public use to provide for public safety during the 2017 Reno Air Racing Association Pylon Racing Seminar and the Reno National Championship Air Races.

DATES: Temporary closure periods are June 7 through June 10, 2017, and September 9 through September 17, 2017.

FOR FURTHER INFORMATION CONTACT: Bryant Smith, Field Manager, Sierra Front Field Office, (775) 885–6000, email: *b6smith@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.,* and pursuant to 43 CFR 8364.1, the lands described below will be temporarily closed to all public use, including pedestrian use and vehicles, to provide for public safety during the 2017 Reno Air Racing Association Pylon Racing

Seminar and the Reno National Championship Air Races.

Mount Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, E½E½, NW¼NE¼;
Sec. 16, SW¼SW¼NE¼, NW¼, W½SE¼.

The area described contains 450 acres, more or less, in Washoe County, Nevada.

The closure notice and map of the closure area will be posted at the BLM Nevada State Office, 1340 Financial Boulevard, Nevada, and on the BLM Web site: *http://www.blm.gov.* The BLM law enforcement, in coordination with the Washoe County Sheriff's Office, will provide notification to the public of the closure during the scheduled events. Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1, the Bureau of Land Management will enforce the following rules in the area described above: All public use, whether motorized, on foot, or otherwise, is prohibited.

Exceptions: Closure restrictions do not apply to event officials, medical and rescue personnel, law enforcement, and agency personnel monitoring the events.

Penalties: Any person who violates this closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

Authority: 43 CFR 8360.0–7 and 8364.1.

Paul Fuselier,

Acting Field Manager, Sierra Front Field Office.

[FR Doc. 2017–11810 Filed 6–6–17; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23327; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 22, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 22, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7200E, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 22, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Warren Bisbee Bus Line No. 8, 250 E. 36th St., Tucson, SG100001002

ARKANSAS

Ashley County

Bethel Cemetery, At the end of Bethel Rd., 3.5 mi. N. of the jct. of AR 52 & AR 53, Crossett vicinity, SG100001003

Craighead County

Home Ice Company, 700 Cate Ave., Jonesboro, SG100001005

Garland County

Hot Springs National Guard Armory, (New Deal Recovery Efforts in Arkansas MPS), 210 Woodbine St., Hot Springs, MP100001006

Independence County

Batesville Commercial Historic District (Boundary Increase II), 407, 409 & 417 Main St., Batesville, BC100001007

Johnson County

MacLean Hall, (World War II Home Front Efforts in Arkansas, MPS), 415 N. College Ave., Clarksville, MP100001008

Lawrence County

Scott Cemetery, 1/2 mi. S. of the jct. of AR 412 & AR 91, Walnut Ridge vicinity, SG100001009

Pulaski County

Gay Oil Company Building, 300 Broadway, Little Rock, SG100001011

Lake Nixon

18500 Cooper Orbit Rd., Little Rock, SG100001013

Martin Cemetery Historic Section

10900 I 30, Little Rock, SG100001014

Washington County

Fitzhugh, Vernon, House, 1551 E. Hope St., Fayetteville, SG100001015

Seagraves, Warren, House, 217 N. Oklahoma Way, Fayetteville, SG100001016

GEORGIA

Floyd County

Fairview School, 276 Padlock Mountain Rd., SW., Cave Spring, SG100001019

Oglethorpe County

Durham Place, 261 N. Main St., Maxeys, SG100001020

IDAHO

Ada County

Sonner—Osier Farmstead Historic District, 4130 W. Beacon Light Rd., Eagle vicinity, SG100001021

MINNESOTA

Hennepin County

Osseo Water Tower, 25 4th St., Osseo, SG100001023

Nobles County

Nobles County War Memorial Building, 407 12th St., Worthington, SG100001024

Ramsey County

Minnesota Mutual Life Insurance Company Building, 345 Cedar St., St. Paul, SG100001025

St. Louis County

Olcott Park Electric Fountain and Rock Garden (Federal Relief Construction in Minnesota, 1933–1943 MPS), NW., quadrant of Olcott Park, 9th St. N., & 9th Ave. N., Virginia, MP100001026

MISSISSIPPI

Adams County

Jackson, Wharlest and Exerlena, House, 13 Matthews St., Natchez, SG100001027

Hinds County

Mt. Olive Cemetery, 900 blk. of John R. Lynch St., Jackson, SG100001028

Neshoba County

Mt. Zion Methodist Church, 11191 Cty. Rd. 741, Philadelphia, SG100001029

Scott County

Hillsboro Methodist Church and Cemetery, Old Highway 35 N., Hillsboro, SG100001030

Walthall County

Mt. Moriah School, 149 Mt. Moriah Rd., Tylertown vicinity, SG100001031

Walthall County Training School, 181 Ginntown Rd., Tylertown, SG100001032

NEW MEXICO

Mora County

Guadalupita—Coyote Rural Historic District, Village of Guadalupita, parts of Guadalupita & Williams canyons & the Coyote Cr. Valley, between Guadalupita & Lucero, Guadalupita, SG100001034

NORTH DAKOTA

Ramsey County

Sons of Jacob Cemetery, 88th Ave. NE., ¼ mi. N. of 67th St. NE., Garske vicinity, SG100001035

SOUTH CAROLINA

Beaufort County

Fort Mitchell, 65 Skull Creek Dr., Hilton Head, SG100001036

Charleston County

Jackson Street Freedman's Cottages, 193–199 Jackson St., Charleston, SG100001037

TEXAS

Cameron County

Garcia, M.E. and Estela Cueto, House, 155 Calle Anacua, Brownsville, SG100001038

VIRGINIA

Chesterfield County

Fuqua Farm, 8700 Bethia Rd., Chesterfield, SG100001039

Essex County

Millers Tavern Rural Historic District, Roughly bounded by Richmond-Tappahannock Hwy., Howerton, Dunbrooke,, Latanes Mill & Midway Rds., Millers Tavern vicinity, SG100001040

Fairfax County

Lake Anne Village Center Historic District, North Shore Dr. & Washington Plaza W. & N., Reston vicinity, SG100001041

Franklin County

Boones Mill Depot, Digby Greene Rd. & Depot Dr., Boones Mill, SG100001042

Giles County

People's Bank of Eggleston, The, 181 Village St., Eggleston, SG100001043

Lancaster County

Grace Episcopal Church, 303 S. Main St., Kilmarnock, SG100001045

New Kent County

Moss Side, 8501 New Kent Hwy., New Kent (Court House) vicinity, SG100001046

Norfolk Independent City

Park Place Historic District (Boundary Increase), Roughly bounded by Hampton Blvd., 23rd St., Granby St. and 38th St., Norfolk (Independent City), BC100001047

Richmond Independent City

Ginter Park Historic District (Boundary Increase), Parts of Brook Rd., Seminary, Chamberlayne, Montrose, Moss Side & Noble Aves., Richmond (Independent City), BC100001048

Philip Morris Blended Leaf Complex Historic District, 2301 Maury St., Richmond (Independent City), SG100001049

Williamsburg Independent City

First Baptist Church, 727 Scotland St., Williamsburg (Independent City), SG100001050

WISCONSIN

Manitowoc County

LOOKOUT (schooner) Shipwreck, (Great Lakes Shipwreck Sites of Wisconsin MPS), 4.35 mi. NE. of Two Rivers in L. Michigan, Two Rivers vicinity, MP100001051

A request to move has been received for the following resource(s):

ARKANSAS

Columbia County

Ozmer House, Southern Arkansas University farm, US 82 Bypass, Magnolia vicinity, MV86003226

An additional documentation has been received for the following resource(s):

ARIZONA

Cochise County

Sacred Heart Church, 592 E. Safford St., Tombstone, AD02000032

Maricopa County

Coronado Neighborhood Historic District (Additional Documentation), Roughly bounded by Virginia Ave., Fourteenth St., McDowell Rd., and Seventh St., Phoenix, AD86000206

ARKANSAS

Pulaski County

Capitol View Neighborhood Historic District, Roughly bounded by Riverview Dr., Schiller St., W. 7th St. and Woodrow St., Little Rock, AD00000813

Governor's Mansion Historic District

Bounded by the Mansion grounds, 13th, Center, Gaines, and 18th Sts., Little Rock, AD78000620

MINNESOTA

Hennepin County

Warehouse Historic District, Roughly bounded by First Ave., Washington Ave., Sixth and Third Ave., Minneapolis, AD65003052

VIRGINIA

Henrico County

Malvern Hill, SE of jct. of Rtes. 5 and 156, Richmond vicinity, AD69000248

Nominations submitted by Federal Preservation Officers:

CALIFORNIA

Fresno County

Mono Trail Corridor Traditional Cultural Property, Address Restricted, Mono Hot Springs vicinity, SG100001017

The State Historic Preservation Officer reviewed the nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

San Francisco County

Federal Office Building, 50 United Nations Plaza, San Francisco, SG100001018

The State Historic Preservation Officer reviewed the nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

MONTANA

Yellowstone County

Huntley Project Office, 2291 2nd St. W., Ballantine, SG100001033

The State Historic Preservation Officer reviewed the nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

WYOMING

Laramie County

United States Post Office and Court House, 2120 Capitol Ave., Cheyenne, SG100001052

The State Historic Preservation Officer reviewed the nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

Authority: 60.13 of 36 CFR part 60

Dated: April 28, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2017–11735 Filed 6–6–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23424; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before May 13, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 22, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 13, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Maricopa County

Hilgeman, Franklin, House (North Central Phoenix Farmhouses and Rural Estate Homes, 1895–1959), 333 W. Loma Ln., Phoenix, MP100001229

Pima County

Craig, George C., House (Single Family Residential Architecture of Josias Joesler and John and Helen Murphey MPS), 5005 N. Calle La Vela, Tucson, MP100001230

Drexel House (Single Family Residential Architecture of Josias Joesler and John and Helen Murphey MPS), 5535 N. Camino Real, Tucson, MP100001231

ARKANSAS

Union County

Barton Library, 200 E. 5th St., El Dorado, SG100001232

Henley—Riley Historic District, 2523 & 2525 Calion Rd., El Dorado, SG100001235

Rumph Mortuary, 312 W. Oak, El Dorado, SG100001237

DISTRICT OF COLUMBIA

District of Columbia

Perna Brothers' Chesapeake Street Houses (Tenleytown in Washington, DC: 1770–1941, MPS), 4112–4118 Chesapeake St. NW., Washington, MP100001234

INDIANA

Marshall County

Plymouth Downtown Historic District (Boundary Increase), 110, 112, 116, 120 Washington, 101 Michigan & the blk. bounded by Garro, Water, LaPorte & Michigan Sts., Plymouth, BC100001236

MAINE

Cumberland County

Whittier Field Athletic Complex, Roughly bounded by Harpswell Rd., Bowker & Pine Sts., Brunswick, SG100001238

Oxford County

Brick School, 3 E. Main St., Paris, SG100001241

Waldo County

Keen Hall, 1 Main St., Freedom, SG100001242

NEW JERSEY

Somerset County

Hamilton Farm Stable Complex, 1040 Pottersville Rd., Bedminster Township, SG100001243

NEW YORK

Chemung County

Miller Block and Townhouse, 226 S. Main & 204–206 W. Henry Sts., Elmira, SG100001244

Orange County

Cash—Draper House, 59 Wickham Ave., Middletown, SG100001245

Rest Haven, 236 High St., Monroe, SG100001246

Tompkins County

Biggs Memorial Hospital Cottage, 402 Harris B. Dates Dr., Ithaca vicinity, SG100001248

Warren County

Heintzelman Library, 6615 NY 8, Brant Lake, SG100001249

TEXAS

Bexar County

Selma Stagecoach Stop and Post Office, 9374 Valhalla, Selma, SG100001252

Fort Bend County

Imperial Sugar Company Refinery Historic District, 198 Kempner St., Sugar Land, SG100001253

Harris County

Houston Bar Center Building, 723 Main St., Houston, SG100001254

WISCONSIN

Dane County

Heidelberger, Dr. Charles and Judith, House, 118 Vaughn Ct., Madison, SG100001255

A request for removal has been made for the following resource(s):

MAINE

Kennebec County

Beck, Klir, House, W of Mt. Vernon off ME 41, Mt. Vernon vicinity, OT77000067

A request to move has been received for the following resource(s):

MAINE

Kennebec County

Starling Grange #156 (former), 2769 Main St. (ME 17), Fayette, MV16000136

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

PENNSYLVANIA

Allegheny County

Experimental and Safety Research Coal Mines, W. side of Cochran Mill Rd. 2 mi. S. of Bruceton, South Park Township, SG100001250

Mine Roof Simulator, NIOSH, Bruceton Research Center, W. side of Cochran Hill Rd., South Park Township, SG100001251

Authority: 60.13 of 36 CFR part 60

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–11734 Filed 6–6–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23391; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before May 6, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 22, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 6, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are

being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Miracle Mile Historic District, Alignment of Miracle Mile, Oracle Rd., Drachman St. & Stone Ave., Tucson, SG100001208

COLORADO

Pueblo County

Roselawn Cemetery, 1706 Roselawn Rd., Pueblo, SG100001212

DISTRICT OF COLUMBIA

District of Columbia

Scheele—Brown House, 2207 Foxhall Rd. NW., Washington, SG100001213

IOWA

Black Hawk County

Wild, Daniel and Margaret, House, 501 W. 1st. St., Cedar Falls, SG100001214

Dubuque County

Concord Congregational Cemetery, 21755 US 52 N., Durango vicinity, SG100001215

Cottage Hill Methodist—Episcopal Cemetery, 22001 US 52 N., Durango vicinity, SG100001216

Madison County

Kellogg, Miles and Elizabeth Smith, House, (Legacy in Stone: The Settlement Era of Madison County, Iowa TR), Off G50, Winterset vicinity, 87002140

MASSACHUSETTS

Plymouth County

Winslow Cemetery, Winslow Cemetery Rd., Marshfield, SG100001219

MINNESOTA

Ramsey County

St. Paul, Minneapolis and Manitoba Railway Company Shops Historic District, (Railroads in Minnesota MPS), Jackson St. & Pennsylvania Ave., St. Paul, MP100001228

NORTH DAKOTA

Cass County

Anderson, George and Beth, House, 1458 S. River Rd., Fargo, SG100001221

TEXAS

Comal County

Fischer Historic District, Roughly bounded by Fischer Store Rd., FM 32, Patriotic & Let's Roll Drs., Fischer, SG100001222

Fayette County

Flatonia Historic District, Roughly bounded by N. Main, 7th, Middle, Market, 6th, Penn, S. Main & Faires Sts., Flatonia, SG100001223

Galveston County

Lost Bayou Historic District, Roughly bounded by Broadway, Ave. N, 14th & 21st Sts., Galveston, SG100001224

Lamar County

Paris Commercial Historic District (Boundary Increase), (Paris MRA), 100 3rd St. NW., Paris, BC100001226

Tarrant County

Masonic Temple, 1100 Henderson St., Fort Worth, SG100001227

A request for removal has been made for the following resource(s):

TEXAS

Harris County

Schauer Filling Station, (Houston Heights MRA), 1400 Oxford St., Houston, OT83004478

An additional documentation has been received for the following resource(s):

ARKANSAS

Clay County

Rector Commercial Historic District, Bounded by St. Louis and Southwestern Railroad tracks on the E. and S., S. Dodd on the W., 3rd St. on the N., Rector, AD09000369

Independence County

Batesville Commercial Historic District, Main and Central Sts., Batesville, AD82000834

IOWA

Polk County

Sherman Hill Historic District, Roughly bounded by Woodland Ave., 19th, School, and 15th Sts., Des Moines, AD79000926

NEW YORK

Dutchess County

Ethal House, (Poughkeepsie MRA), 171 Hooker Ave., Poughkeepsie, AD82001134

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

CALIFORNIA

Plumas County

Mount Harkness Fire Lookout, (Historic Park Landscapes in National and State Parks MPS), Lassen Volcanic NP, Mineral vicinity, MP100001211

LOUISIANA

Orleans Parish

Federal Building, 600 S. Maestri Pl., New Orleans, SG100001218

Authority: 60.13 of 36 CFR part 60.

Dated: May 12, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2017–11738 Filed 6–6–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23378; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 29, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 22, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 29, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

IDAHO

Idaho County

Yawwinma, 143 Rapid River Rd., Riggins vicinity, SG100001053

INDIANA

Dubois County

Jasper Downtown Historic District, Roughly bounded by 9th, Clay, 3rd & Mill Sts., Jasper, SG100001058

Johnson County

Greenwood Residential Historic District, Roughly bounded by Meridian, McKinley, Perry & Main Sts., Euclid & Longdon Aves., Greenwood, SG100001059

La Porte County

Forrester, James and Lavinia, Farmstead, 969 Forrester Rd., LaPorte, SG100001060

Marshall County

Bourbon Commercial Historic District, Parts of Main & Center Sts., Bourbon, SG100001061

Bourbon Residential Historic District, Main between Park & Shaffer Sts., blks. bounded by Sunset St. & Park Ave. between Thompson & Harris Sts., Park Ave., Bourbon, SG100001062

Randolph County

Ward Township District No. 5 School (Indiana's Public Common and High Schools MPS), NW. corner of 700 North & 100 East, Deerfield vicinity, MP100001064

Vigo County

Rea Park, 3500 S. 7th St., Terre Haute, SG100001065

NEW YORK

Erie County

Virginia, The, 250 Virginia St., Buffalo, SG100001067

Hamilton County

Camp Taiga, 52 Mattson Way, Long Lake, SG100001068

Monroe County

East Main Street Historic District (Inner Loop MRA), E. Main St. from South to Chestnut, East, Euclid, Clinton, Stone, Division, Elm, Atlas,, Achilles & Franklin, Rochester, MP100001069

Orleans County

Gaines District No. 2 Cobblestone Schoolhouse (Cobblestone Architecture of New York State MPS), 3286 Gaines Basin Rd., Albion vicinity, MP100001070

Schenectady County

St. Mary's Catholic Church Complex, 820–828 Eastern Ave. & 104 Irving St., Schenectady vicinity, SG100001071

Schoharie County

Bice, Marshall D., House, 229 Main St., Schoharie, SG100001072

OKLAHOMA

Garfield County, Harrison School, 212 W. Birch Ave., Enid, SG100001073

Logan County

Ozark Trails—Indian Meridian Obelisk, Jct. of Logan & E. Washington Aves., Langston, SG100001074

SOUTH CAROLINA

Charleston County

Lawton—Seabrook Cemetery, 7938 Steamboat Landing Rd., Edisto Island, SG100001075

Horry County

Waikiki Village Motel, 1500 S. Ocean Blvd., Myrtle Beach, SG100001076

UTAH

Cache County

River Heights Sinclair Station, 594 South 400 East, River Heights, SG100001077

VIRGINIA

Alexandria Independent City

Appomattox Statue, Jct. of Prince & Washington Sts., Alexandria (Independent City), SG100001066

Culpeper County

Lord Culpeper Hotel, 401 S. Main St., Culpeper, SG100001078

Giles County

Doe Creek Farm, 412 Doe Creek Rd., Pearisburg vicinity, SG100001079

Harrisonburg Independent City

Turner Ashby Monument, 1164 Turner Ashby Ln., Harrisonburg (Independent City), SG100001080

Loudoun County

Amos—Goodin House, 37738 Wright Farm Dr., Purcellville, SG100001081

Roanoke County

Byrd, William, High School Historic District, 100 & 156 Highland Rd., Vinton, SG100001082

Rockingham County

Paul's Ottobine Mill, 8061 Judge Paul Rd., Dayton vicinity, SG100001083

Salem Independent City

Blair Apartments, 231 Chestnut St., Salem (Independent City), SG100001084

A request for removal has been made for the following resource(s):

LOUISIANA

Avoyelles Parish

Epps, Edwin, House, US 71, Bunkie, OT84001255

Jefferson Davis Parish

Sunny Meade, 819 Cary Ave., Jennings, OT85000837

Lafayette Parish

Salles House and Office, 512 and 514 S. Buchanan St., Lafayette, OT84001316

Orleans Parish

Washington, Booker T., High School and Auditorium, 1201 S. Roman, New Orleans, OT02000803

An additional documentation has been received for the following resource(s):

INDIANA

Marshall County

Plymouth Downtown Historic District, Roughly bounded by Center, Washington, and Water Sts., and Yellow R., Plymouth, AD98001524

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

Carbon County

42CB1929 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001085

42CB3000 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001086

42CB3025 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001087

42CB3063 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001088

42CB3106 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001089

42CB3154 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001090

42CB3162 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001091

42CB3029 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001092

42CB3066 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001093

42CB3134 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001094

Family Panel (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001095

42CB3022 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001096

42CB3023 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001097

42CB3024 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001098

42CB3037 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001099

Duchesne County

42DC215 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001100

42DC637 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001101

42DC707 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001102

42DC711 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001103

42DC713 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001104

42DC2174 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001105

42DC2185 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001106

42DC2186 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001107

42DC2267 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001108

42DC2753 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001109

42DC2843 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001110

42DC3452 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001111

42DC3459 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001112

42DC184 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001113

42DC188 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001114

42DC189 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001115

42DC192 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001116

42DC193 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001117

42DC196 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001118

42DC198 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001119

42DC199 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001120

42DC200 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001121

42DC201 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001122

42DC202 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001123

42DC207 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001124

42DC208 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001125

42DC209 (Nine Mile Canyon, Utah MPS), Address Restricted, Price, MP100001126

42DC211 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001127

42DC213 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001128

42DC214 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001129

42DC258 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001130

42DC716 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001131

42DC257 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001132

42DC717 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001133

42DC718 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001134

42DC719 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001135

42DC2179 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001136

42DC2180 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001137

42DC2183 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001138

42DC2181 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001139

42DC2187 (Nine Mile Canyon, Utah MPS), Address Restricted, Price, MP100001140

42DC2643 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001141

42DC2747 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001142

42DC2748 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001143

42DC2750 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001144

42DC2751 (Nine Mile Canyon, Utah MPS), Address Restricted, Price, MP100001145

42DC2841 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001146

42DC206 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001147

42DC216 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001148

42DC217 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001149

42DC720 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001150

42DC715 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001151

42DC2460 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001152

42DC2755 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001153

42DC2758 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001154

42DC2829 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001155

Uintah County

42UN1899 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001156

42UN1913 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001157

42UN1914 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001158

42UN1916 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001159

42UN1926 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001160

42UN1931 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001161

42UN1932 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001162

42UN1933 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001163

42UN1939 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001164

42UN2027 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001165

42UN2028 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001166

42UN2030 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001167

42UN5906 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001168

42UN7042 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001169

Sand Wash Ferry—Hank Stewart Cabin, (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001170

42UN1924 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001171

42UN1927 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001172

42UN1928 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001173

42UN1929 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001174

42UN1930 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001175

42UN1934 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001177

42UN1935 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001178

42UN1938 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001180

42UN2029 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001181

42UN2031 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001182

42UN5907 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001183

42UN5908 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001184

42UN5909 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001185

42UN5910 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001186

42UN5911 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001187

42UN1900 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001188

42UN1901 (Nine Mile Canyon, Utah MPS), Address Restricted, Price, MP100001189

42UN1902 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001190

42UN1905 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001191

42UN1906 (Nine Mile Canyon, Utah MPS), Address Restricted, Price, MP100001192

42UN1907 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001193

42UN1909 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001194

42UN1912 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001195

42UN1915 Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001196

42UN1917 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001197

42UN1925 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001198

42UN6699 (Nine Mile Canyon, Utah MPS), Address Restricted, Price vicinity, MP100001199

Authority: 60.13 of 36 CFR part 60

Dated: May 8, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–11737 Filed 6–6–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–579–580 and 731–TA–1369–1373 (Preliminary)]

Fine Denier Polyester Staple Fiber From China, India, Korea, Taiwan, and Vietnam; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–579–580 and 731–TA–1369–1373 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of polyester staple fibers, not carded, combed or otherwise processed for spinning, measuring less than 3.3 decitex (''fine denier polyester staple fiber''), provided for in subheading 5503.20.00 of the Harmonized Tariff Schedule of the United States (HTS), the product of China, India, Korea, Taiwan, and Vietnam that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Governments of China and India. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by July 17, 2017. The Commission's views must be transmitted to Commerce within five business days thereafter, or by July 24, 2017.

DATES: *Effective Date:* May 31, 2017.

FOR FURTHER INFORMATION CONTACT: Calvin Chang ((202) 205–3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on May 31, 2017, by DAK Americas, LLC, Charlotte, NC; Nan Ya Plastics Corporation, Lake City, SC; and Auriga Polymers Inc., Charlotte, NC.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI

gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, June 21, 2017, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before June 19, 2017. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 26, 2017, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 1, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–11755 Filed 6–6–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on May 11, 2017, 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 Open Group, L.L.C. (''TOG'') 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, Abiztar Learning Technologies, S.C., Mexico City, MEXICO; Altkom Akademia S.A., Warsaw, POLAND; Arizona State University, Tempe, AZ; aRway AB, Stockholm, SWEDEN; Auldhouse Computer Training Limited, Auckland, NEW ZEALAND; Benchmark Consulting Canada, Montreal, CANADA; BP Gurus S.A. DE C.V., Mexico City, MEXICO; Cape Software, Inc., The Woodlands, TX; Enterprise Transformation Partners Pty. Ltd., Perth, WA; EuroAvionics USA, LLC, Sarasota, FL; General Secretariat of the Council of the European Union, Brussels, BELGUIM; HiSolutions AG, Berlin, GERMANY; Industrial Electronic Engineers, Inc., Van Nuys, CA; Information Professionals Pty. Ltd., Brisbane, AUSTRALIA; Intelligent Training de Colombia, Bogota, COLOMBIA; Inter-Coastal Electronics, Inc., Mesa, AZ; IT Professionals SRL–ITAcademy, Bucharest, ROMANIA; ITC GmbH Gesellschaft fur Netzwerkmanagement und Systemintegration mbH, Detmold, GERMANY; JNS Solutions, Inc., New Port Richey, FL; Kelvin, Inc., Portola Valley, CA; LNS Global, Inc., Cambridge, MA; Materna GmbH Information & Communications, Dortmund, GERMANY; Merck KGaA, Molsheim, FRANCE; Ministry of Defence, Corsham, UNITED KINGDOM; MTN Group Management Services, Johannesburg, SOUTH AFRICA; University of Leeds (NIHR Clinical Research Network), Leeds, UNITED KINGDOM; OMNICOM, s.r.o., Bratislava, SLOVAKIA; On Target Training & Management, LLC, Raleigh, NC; ourGlobe, LLC, Thun, SWITZERLAND; Piotr Golos, Sokolow Podlaski, POLAND; PMH IT Management & Services, Pty., Ltd., Groblersdal, SOUTH AFRICA; Procept Associates Ltd., Toronto, CANADA; Rapid Imaging Software, Inc., Albuquerque, NM; Riverside Research, Beavercreek, OH; Sites Learning India Pvt. Ltd., New Delhi, INDIA; Strand & Donslund A/S, Soborg, DENMARK; Terma North America, Inc., Warner Robins, GA; Tubitak Informatics and Information Security Research Center, Gebze, TURKEY; Veracity Security Intelligence, Aliso Viejo, CA; Voith Digital Solutions GmbH, Heidenheim, GERMANY; and Waterfall Security Solutions Ltd., Rosh HaAyin, ISRAEL, have been added as parties to this venture.

Also, AEGIS.net, Inc., Rockville, MD; Air China Limited, Beijing, PEOPLE'S REPUBLIC OF CHINA; ARTe Group BV, Maastricht, THE NETHERLANDS; Avionics Interface Technologies, L.L.C., Omaha, NE; Built IT Solutions, Sao Paulo, BRAZIL; Connected Digital Economy Catapult, London, UNITED KINGDOM; Creative Electronic Systems—CAL, Inc., Albuquerque, NM; DMTF Distributed Management Task Force, San Jose, CA; Edutech

Enterprises, Singapore, SINGAPORE; EMC Corporation, San Antonio, TX; Energistics, Sugar Land, TX; INFO SPEC SDN BHD, Petaling Jaya, MALAYSIA; Martin-McDougall Technologies (Pty) Ltd., New South Wales, AUSTRALIA; PA Consulting Group, London, UNITED KINGDOM; Richland Technologies LLC, Lawrenceville, GA; TONEX, Inc., Dallas, TX; TriZetto Corporation, St. Louis, MO; Ultrax Aerospace, Inc., Lee's Summit, MO; Vencore, Inc., Lexington Park, MD; Vidyalankar School of Information Technology, Mumbai, INDIA; and WBEM Solutions, Inc., Burlington, MA, 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 TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG 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 13, 1997 (62 FR 32371).

The last notification was filed with the Department on March 30, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 14, 2017 (82 FR 18012).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–11785 Filed 6–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenDaylight Project, Inc.

Notice is hereby given that, on May 2, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') 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, PLUMgrid Inc., Sunnyvale, CA; and Oracle Corp., Santa Clara, CA, 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 OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight 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 1, 2013 (78 FR 39326).

The last notification was filed with the Department on February 21, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 16, 2017 (82 FR 14036).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–11786 Filed 6–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Hedge IV

Notice is hereby given that, on May 10, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on HEDGE IV (''HEDGE IV'') 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, Toyota Motor Corporation, Shizuoka, JAPAN, 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 HEDGE IV intends to file additional written notifications disclosing all changes in membership.

On February 14, 2017, HEDGE IV 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 March 27, 2017 (82 FR 15238).

The last notification was filed with the Department on March 29, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 1, 2017 (82 FR 20383).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–11788 Filed 6–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Particle Sensor Performance and Durability

Notice is hereby given that, on April 27, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Particle Sensor Performance and Durability (''PSPD–II'') 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, Robert Bosch GmbH, Stuttgart, GERMANY, 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 PSPD–II intends to file additional written notifications disclosing all changes in membership.

On March 15, 2017, PSPD–II 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 April 14, 2017 (82 FR 18012).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–11787 Filed 6–6–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Steven W. Easley, M.D.; Decision and Order

On December 29, 2016, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Steven W. Easley, M.D. (Registrant), of Madison, Mississippi. The Show Cause Order proposed the revocation of Registrant's Certificates of Registration, the denial of any applications to renew or modify his registration, and the denial of any applications for any other DEA registration on the ground that he lacks ''state authority to handle controlled substances'' in Mississippi, the State in which he is registered with the DEA. Order to Show Cause, at 1–2 (citing 21 U.S.C. 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to Certificate of Registration FE2565779, at the address of 409 Tyler Holmes Drive, Winona, Mississippi. *Id.* at 1. The Order alleged that Registrant is also registered as a practitioner in schedules II through V, pursuant to Certificate of Registration No. FE2882226, at the address of 140 Burke-Calhoun City Road, Calhoun City, Mississippi. *Id.* The Order also alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to Certificate of Registration No. FE2882062, at the address of 1100 Hwy 16 E, Carthage, Mississippi. *Id.* The Show Cause Order alleges that all three of these registrations expire on August 31, 2017. *Id.*

As substantive grounds for the proceeding, the Show Cause Order alleged that on March 3, 2016, the Mississippi State Board of Medical Licensure issued an ''Order of Prohibition, prohibiting [Registrant] from practicing medicine,'' that the status of Registrant's ''Mississippi medical license is 'expired,''' and that he is ''currently without authority to practice medicine or handle controlled substances in the State of Mississippi, the [S]tate in which [he is] registered with the DEA.'' *Id.* at 2. Thus, based on his ''lack of authority to [dispense] controlled substances in . . . Mississippi,'' the Order asserted that ''DEA must revoke'' his registrations. *Id.* (citing 21 U.S.C. 824(a)(3); 21 CFR 1301.37(b)).

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Show Cause Order also notified Registrant of his right to submit a corrective action plan. *Id.* at 2–3.

The Government states that on December 30, 2016, ''[p]ersonnel'' from the Jackson District Office of the New Orleans Field Division personally served the Order to Show Cause on Registrant. Government Request for Final Agency Action (RFFA), at 1–2 (citing Exhibit (GX) 4). Registrant signed a Form DEA–12, Receipt for Cash or Other Items, documenting service of the Order on him. GX 4 (stating ''OTSC Documents'' for the ''Description of Items'').

On March 14, 2017, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that Registrant has neither requested a hearing nor ''otherwise corresponded or communicated with DEA regarding'' the Show Cause Order. RFFA, at 2. Based on the Government's representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *Id.* at 2 (citing 21 CFR 1301.43(d)). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

Findings of Fact

Registrant is a physician who held Mississippi Medical License No. 15463 until it expired on March 3, 2016. GX 5. In addition, the Mississippi State Board of Medical Licensure issued an Order of Prohibition to Registrant on March 3, 2016. GX 3 at 4. Under the Order, Registrant was ''immediately prohibited from practicing medicine'' until he undergoes a complete evaluation for impairment at an approved treatment facility ''and thereafter is found capable of returning to the practice of medicine by the Mississippi State Board of Medical Licensure.'' *Id.* Registrant has offered no evidence that such a finding has been made, nor that he otherwise currently has authority to practice medicine or dispense controlled substances under the laws of Mississippi. Based on the above, I find that Registrant does not currently have authority under the laws of Mississippi to dispense controlled substances.

Registrant is the holder of three DEA Certificates of Registration, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner. Pursuant to Registration No. FE2565779, Registrant is authorized to dispense controlled substances at the address of 409 Tyler Holmes Drive, Winona, Mississippi. GX 1 at 1. Pursuant to Registration No. FE2882226, Registrant is authorized to dispense controlled substances at the address of 140 Burke-Calhoun City Road, Calhoun City, Mississippi. *Id.* at 5. Pursuant to Registration No. FE2882062, Registrant is authorized to dispense controlled substances at the address of 1100 Hwy 16 E, Carthage, Mississippi. *Id.* at 3. All three registrations expire on August 31, 2017. *Id.*

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has had [his] State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.'' 21

U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR 27616 (1978).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Mississippi Board has employed summary process in suspending Registrant's state license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in the State in which he is registered. I will therefore order that his registrations be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificates of Registration Nos. FE2565779, FE2882226, and FE2882062 issued to Steven W. Easley, M.D., be, and they hereby are, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), I further order that any applications to renew or modify the above registrations be, and they hereby are, denied. This Order is effective immediately.[1]

Dated: May 30, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11796 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–09–P

[1] For the same reasons that led the Mississippi Board to summarily suspend Registrant's medical license, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 16–6]

Patricia A. Newton, M.D.; Order

On review of the record, I noted that the expiration date of Respondent's Certificate of Registration was October 31, 2016. GX 1. I therefore took official notice of the Agency's registration records for Respondent to determine if she has filed a renewal application. According to the Agency's records, Respondent had not filed a renewal application whether timely or not.

Accordingly, on May 7, 2017, I issued an order directing the parties to address whether this case is now moot and provided the parties with seven calendar days to file their submissions. Order, at 1 (May 7, 2017). While the Government filed a response to my order, Respondent has not.

In its Response, the Government acknowledges that Respondent's registration has expired and states that ''there is no record of any subsequent renewal application being filed for this registration.'' Certification of Registration History (May 15, 2017). Noting that there is neither a registration nor an application (whether timely or not) to act upon, the Government moves that this case be declared moot and that the Order to Show Cause be dismissed. Gov. Resp. to Order, at 1 (citing, *inter alia, Amy S. Benjamin,* 77 FR 72408 (2012); *Ronald J. Riegel,* 63 FR 67132, 67133 (1998)).

There being no showing of any collateral consequence which precludes a finding of mootness, I grant the Government's motion and dismiss the Order to Show Cause.

Dated: May 30, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11798 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17–14]

Emmanuel O. Nwaokocha, M.D.; Decision and Order

On December 5, 2016, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Emmanuel O. Nwaokocha, M.D. (Respondent), of Harwood Heights, Illinois. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration No. FN5571864 on the ground that he ''do[es] not have authority to handle controlled substances in the State of Illinois, the [S]tate in which [he is] registered with the DEA.'' Order to Show Cause, at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent is the holder of Certificate of Registration No. FN5571864, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 4740 N. Harlem Ave., Harwood Heights, Illinois. *Id.* The Order also alleged that this registration does not expire until October 31, 2018. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that on March 15, 2016, the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation (IDFPR), ''indefinitely suspended [his] license to practice medicine due to [his] conviction for Medicaid fraud,'' and he is therefore ''without authority to handle controlled substances in the State of Illinois, the [S]tate in which [he is] registered with the DEA.'' *Id.* Based on his ''lack of authority to [dispense] controlled substances in . . . Illinois,'' the Order asserted that ''DEA must revoke'' his registration. *Id.* at 2 (citing 21 U.S.C. 823(f) and 824(a)(3)).

The Show Cause Order notified Respondent of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of his right to submit a corrective action plan. *Id.* at 2–3.

On December 13, 2016, a Diversion Investigator from the Chicago Field Division personally handed a copy of the Order to Show Cause to the Respondent at his residence located at 9453 Lorel Ave., Skokie, Illinois 60077. Government's Submission of Evidence and Request for Summary Disposition (hereinafter, Govt. Mot.), Exhibit (hereinafter, GX) 1, at 1. Following service of the Show Cause Order, Respondent requested a hearing on the allegations. The matter was placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, CALJ). On January 4, 2017, the CALJ ordered the Government to submit evidence to

support the allegation, and any motion for summary disposition, no later than January 17, 2017. Order Directing the Filing of Government Evidence or Lack of State Authority Allegation and Briefing Schedule, at 1. The CALJ also directed Respondent to file his response to any summary disposition motion no later than January 27, 2017. *Id.*

On January 13, 2017, the Government filed its Request for Summary Disposition. In its Request, the Government argued that it is undisputed that Respondent lacks authority to handle controlled substances in Illinois because the IDFPR indefinitely suspended Respondent's medical license. Govt. Mot. at 2. The Government further argued ''that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for both obtaining and maintaining a practitioner's registration,'' and that under the DEA's precedents, revocation is warranted even where a State has invoked summary process to suspend a practitioner's state authority and has yet to provide the practitioner with a hearing where he may prevail. Govt. Mot., at 4–5 (citations omitted). As support for its summary disposition request, the Government attached, *inter alia,* a copy of the IDFPR's March 15, 2016 Order placing an ''INDEFINITE SUSPENSION'' on Respondent's Illinois Physician and Surgeon license, a letter from the Acting Director of the IDFPR confirming that the indefinite suspension ''remains in effect as of January 10, 2017,'' and a January 12, 2017 printout from the IDFPR's Web site showing that his license status was ''SUSPENDED.'' *Id.* at GX 1, Attachments D–F.

In his responsive pleading, Respondent did not dispute that his medical license had been suspended by the State of Illinois, and that ''[t]he order of suspension is in effect.'' Respondent's Response to Government's Request for Summary Disposition (hereinafter, Resp. Reply), at 2. Instead, he argued that he ''anticipated'' that his motion to stay the suspension pending his appeal of the IDFPR's suspension order would be decided on February 14, 2017, and that an order granting such motion would enable him to resume practicing medicine. *Id.* He further argued that there was a ''likelihood'' that his stay motion would be granted by the Illinois Circuit Court because a stay motion had been granted in a prior appeal. *Id.* Respondent also argued that the CALJ should delay ruling because, in Respondent's view, DEA was enforcing a ''discretionary'' ground for denying his revocation pursuant to 21 U.S.C. 824(a)(3), not a mandatory ground. *Id.* at 3. Lastly, Respondent argued that Due Process required the CALJ to give Respondent ''an opportunity to be heard at a meaningful time,'' and that a ''meaningful time'' was after the Illinois Circuit Court had ruled. *Id.* at 3–4. As a result, Respondent requested that the CALJ deny or stay the Government's Request for Summary Disposition ''pending a decision by the Circuit Court.'' *Id.* at 4.

On January 30, 2017, the Government filed its opposition to Respondent's request for a stay with the CALJ. The Government noted that a practitioner's expectation of obtaining state authority in a concurrent legal proceeding is not a basis to stay revocation proceedings against a practitioner who lacks such authority because the Controlled Substances Act (CSA) requires practitioners to hold state authority in order to be registered. Government's Opposition to Dr. Nwaokocha's Request for a Stay at 2–3. In the same vein, the Government contended that, when a practitioner's state license is suspended, then revocation of that practitioner's DEA registration is mandatory. *Id.* at 3–4 (citing 21 U.S.C. 802(21) and 821(f) [sic]).

The CALJ rejected Respondent's request for a stay, noting that ''revocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action and at which he . . . may ultimately prevail.'' Order Denying the Respondent's Request for Stay; Granting the Government's Motion for Summary Disposition; and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (R.D.) at 3 (citing 21 U.S.C. 802(21) and 823(f) (quotations and citations omitted)). While he was ''not unmindful of the Respondent's arguments concerning the Agency's expenditure of resources should his state authority be reinstated on February 14, 2017,'' the CALJ noted that the DEA has previously held ''that a stay in administrative enforcement proceedings is 'unlikely to ever be justified' due to ancillary proceedings involving the Respondent.'' *Id.* at 4 (quoting *Grider Drug #1 & Grider Drug #2,* 77 FR 44070, 44104 n.97 (2012)).[1]

The CALJ then found that there was no dispute over the material fact that ''Respondent currently lacks state authority to handle controlled substances in Illinois due to the IDFPR['s] Order dated March 15, 2016, which temporarily [2] suspended his state license to practice medicine.'' *Id.* at 6–7. Reasoning that ''[b]ecause . . . Respondent lacks state authority at the present time . . . he is not entitled to maintain his DEA registration,'' the CALJ granted the Government's request and recommended that his registration be revoked and that any pending renewal applications be denied. *Id.*

Neither party filed exceptions to the CALJ's Recommended Decision. Thereafter, the record was forwarded to my Office for Final Agency Action. Having reviewed the record, I adopt the CALJ's finding that by virtue of the IDFPR's Order, Respondent is currently without authority to handle controlled substances in Illinois, the State in which he holds his registration with the Agency, and is thus not entitled to maintain his registration. I further adopt the CALJ's recommendation that I revoke his registration and deny any pending application. I make the following factual findings.

Findings of Fact

Respondent is a physician who holds Illinois Medical License No. 036067760. *See* GX 1, Attachment E, at 1. However, on March 15, 2016, the IDFPR issued an Order indefinitely suspending Respondent's medical license. GX 1, Attachment D, at 8. The Panel further ordered that the suspension be ''implemented as of the date of the Order.'' *Id.* 9. Respondent offered no evidence in his Response to the Government's Request or at any time thereafter showing that the IDFPR has lifted the suspension. Based on the above, I find that Respondent does not currently have authority under the laws of Illinois to dispense controlled substances.

Respondent is also the holder of DEA Certificate of Registration No. FN5571864, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the address of 4740 N. Harlem Ave., Harwood Heights, Illinois. GX 1, Attachment A. This registration

[1] I agree with this statement of the Agency's precedents. However, the CALJ also cited *Odette L. Campbell,* 80 FR 41062 (2015), as contrary authority. *See id.* The CALJ characterized *Campbell* as ''holding revocation proceedings in abeyance at the post-hearing adjudication level for a lengthy period pending the resolution of both criminal fraud charges and concurrent state administrative proceedings against the respondent.'' *Id.* For the reasons I have set forth in past decisions, *see e.g., Judson H. Somerville,* 82 FR 21408, 21409 n.3 (2017), I respectfully disagree with the CALJ's reading of *Campbell.*

[2] By its terms, the IDFPR's Order states that Respondent was ''placed on INDEFINITE SUSPENSION.'' GX 1, Attachment D at 8.

does not expire until October 31, 2018. *Id.*

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a DEA registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the IDFPR has indefinitely suspended Respondent's state license and that Respondent may prevail on his appeal to Illinois Cook County Circuit Court.[3] What is dispositive is the fact that Respondent is not currently authorized to dispense controlled substances in the State in which he is registered.

Here, there is no dispute over the material fact that Respondent is no longer currently authorized to dispense controlled substances in Illinois, the State in which he is registered. Accordingly, he is not entitled to maintain his registration. I will therefore adopt the CALJ's recommendation that I revoke Respondent's registration and deny any pending applications to renew or modify his registration. R.D. at 7.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a)(3) and 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FN5571864 be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), I order that any applications to renew or modify the above registration be, and they hereby are, denied. This Order is effective immediately.[4]

Dated: May 30, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11797 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–09–P

[3] Similarly, and contrary to Respondent's claim, Due Process does not require the CALJ to delay summary disposition of the case until his motion to stay pending before the Illinois Circuit Court had been decided. Resp. Reply at 3–4. Rather, Due Process required the CALJ to provide Respondent the opportunity to respond to the Order to Show Cause and the Government's Request for Summary Disposition. The CALJ did provide Respondent such an opportunity, and the Respondent did so respond. Respondent provided no authority for the notion that the CALJ violated Respondent's right to Due Process by, in fact, providing Respondent an ''opportunity to be heard'' instead of delaying such opportunity. Respondent's claim that the CALJ should have delayed his recommended decision is particularly unavailing where, as here, there are no controlling facts in dispute.

[4] For the same reasons which led the IDFPR to order the indefinite suspension of Respondent's medical license, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act

On June 1, 2017, the Department of Justice lodged a proposed Consent Decree (''Consent Decree'') with the United States District Court for the District of Puerto Rico in the lawsuit entitled *United States and Commonwealth of Puerto Rico* v. *Port Stewart GmbH&Co. Kg of Germany,* Civil Action No. 3:17–cv–01742.

In a Complaint, the United States, on behalf of the Department of Commerce, National Oceanic and Atmospheric Association (''NOAA''), and the Commonwealth of Puerto Rico, on behalf of the Puerto Rico Department of Natural and Environmental Resources (''DNER''), seek to recover damages for the injury to, destruction of, loss of, or loss of use of natural resources under the Oil Pollution Act, 33 U.S.C. 2701, *et seq.* The Complaint alleges that on October 27, 2009, Port Stewart GmbH&Co. Kg of Germany (the ''Defendant''), caused damage to a coral reef habitat on the southeast side of Puerto Rico near the entrance to Yabucoa Channel in the Caribbean Sea due to the grounding of the *T/V Port Stewart,* an oil tanker that it owned and operated. The proposed Consent Decree in this case requires that Defendant pay a total of $550,000 for the damage, which includes $412,000 to restore injured coral reefs in the area, and $128,000 in reimbursement of NOAA costs and $10,000 in reimbursement of DNER costs in assessing the damage.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Commonwealth of Puerto Rico* v. *Port Stewart GmbH&Co. Kg of Germany,* D.J. Ref. No. 90–5–1–1–11557. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.50 (25 cents per page

reproduction cost), payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 2017–11783 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[17–033]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection renewal, with change.

SUMMARY: The National Aeronautics and Space Administration, 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: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 7th Street NW., Washington, DC 20543. Attention: Desk Officer for NASA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA PRA Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, (202) 358–2225.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration seeks to collect information from members of the public to plan, conduct, and register participants and volunteers for the NASA Human Exploration Rover Challenge, which supports science, technology, engineering, or mathematics (STEM) education. This engineering design challenge focuses on NASA's current plans to explore planets, moons, asteroids, and comets—all members of the solar system family. The challenge will focus on designing, constructing and testing technologies for mobility devices to perform in these different environments, and it will provide valuable experiences that engage students in the technologies and concepts that will be needed in future exploration missions. NASA collects the minimum information necessary from teams, participants, and volunteers to plan and conduct the event.

II. Method of Collection

Electronic.

III. Data

Title: NASA Human Exploration Rover Challenge.

OMB Number: 2700–0157.

Type of Review: Extension, with change, of a currently approved information collection.

Affected Public: Individuals.

Estimated Number of Respondents: 960.

Estimated Total Annual Burden Hours: 78.

Estimated Total Annual Cost: $7,425.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

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

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2017–11775 Filed 6–6–17; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Northwest Medical Isotopes; Notice of Meeting

The ACRS Subcommittee on Northwest Medical Isotopes (NWMI) will hold a meeting on June 19, 2017, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Monday, June 19, 2017—8:30 a.m. Until 5:15 p.m.

The Subcommittee will review and comment on Chapters 1, 2, 4, and 5 of the NWMI Construction Permit Application Preliminary Safety Analysis Report for a Radioisotope Production Facility, and the associated NRC Safety Evaluation Reports.

The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Kathy Weaver (Telephone 301–415–6236 or Email: *Kathy.Weaver@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016, (81 FR 71543).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting,

persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: May 31, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–11799 Filed 6–6–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–027 and 52–028; NRC–2008–0441]

South Carolina Electric & Gas Company; South Carolina Public Service Authority, Virgil C. Summer Nuclear Station, Units 2 and 3; Passive Core Cooling System (PXS) Condensate Return

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment No. 61 to Combined Licenses (COL), NPF–93 and NPF–94, respectively. The COLs were issued to South Carolina Electric & Gas Company and the South Carolina Public Service Authority, (both collectively referred to as the licensee) for construction and operation of the Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, located in Fairfield County, South Carolina.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on February 28, 2017.

ADDRESSES: Please refer to Docket ID NRC–2008–0441 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–2008–0441. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated November 18, 2016 (ADAMS Accession No. ML16323A335).
- *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: Ruth C. Reyes, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3249; email: *Ruth.Reyes@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment No. 61 to COLs, NPF–93 and NPF–94, to the licensee. The exemption is required by Paragraph A.4 of Section VIII, ''Processes for Changes and Departures,'' of appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. The amendment authorizes changes to the VCSNS Units 2 and 3 Updated Final Safety Analysis Report in the form of departures from the incorporated plant specific DCD Tier 2 information, proposes to depart from involved plant-specific Tier 1 information (and associated COL Appendix C information) and from involved plant-specific Technical Specifications as incorporated in Appendix A of the COL. With the requested amendment, the licensee proposed changes to reflect an increase in the efficiency of the return of condensate utilized by the passive core cooling system to the in-containment refueling water storage tank to support the capability for long-term cooling.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML17026A479.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VCSNS Units 2 and 3 (COLs NPF–93 and NPF–94). The exemption documents for VCSNS Units 2 and 3 can be found in ADAMS under Accession Nos. ML17026A400 and ML17026A410, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–93 and NPF–94 are available in ADAMS under Accession Nos. ML17026A391 and ML17026A398, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VCSNS Units 2 and Unit 3. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated November 18, 2016, the licensee requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 16–06, ''Passive Core Cooling System (PXS) Condensate Return.''

For the reasons set forth in Section 3.0 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML17026A479, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined Licenses as described in the licensee's request dated November 18, 2016. This exemption is related to, and necessary for the granting of License Amendment No. 61, which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML17026A479), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated November 18, 2016 (ADAMS Accession No. ML16323A335), the licensee requested that the NRC amend the COLs for VCSNS, Units 2 and 3, COLs NPF–93 and NPF–94. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for 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 COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on December 15, 2016 (81 FR 90871). No comments were received during the 30-day comment period.

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.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on letter dated November 18, 2016. The exemption and amendment were issued on February 28, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17026A381).

Dated at Rockville, Maryland, this 30th day of May 2017.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017–11803 Filed 6–6–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATES: Week of June 5, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of June 5—Tentative

Friday, June 09, 2017

11:30 a.m. Affirmation Session (Public Meeting) (Tentative)

Entergy Nuclear Operations, LLC & Entergy Nuclear Operations, Inc. (James A. FitzPatrick Nuclear Power Plant), Request for Hearing on Requests for Extension of Time to Comply with EA–12–049, EA–12–051, and EA–13–109 (Tentative).

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: June 2, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–11880 Filed 6–5–17; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–55; MC2017–138 and CP2017–196]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 8, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2015–55; *Filing Title:* Notice of United States Postal Service of Amendment to Parcel Select Contract 9, with Portions Filed Under Seal; *Filing Acceptance Date:* May 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Gregory Stanton; *Comments Due:* June 8, 2017.

2. *Docket No(s).:* MC2017–138 and CP2017–196; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 323 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* May 31, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* June 8, 2017.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2017–11711 Filed 6–6–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2017–197]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 9, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–197; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 1, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 9, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–11793 Filed 6–6–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80832; File No. SR–CBOE–2017–043]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Adopt Rule 6.97, Consolidated Audit Trail (CAT) Compliance Rule—Fee Dispute Resolution

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') 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 filed a proposal to adopt Rule 6.97 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail (CAT)—Funding Fees, which will require Industry Members that are Members of the Exchange to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 6.97 (Consolidated Audit Trail (CAT) Compliance Rule—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 6.97 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 6.97 sets forth the definitions for Proposed Rule 6.97. Paragraph (a)(i) of Proposed Rule 6.97 states that, for purposes of Rule 6.97, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 6.85 (Consolidated Audit Trail (CAT) Compliance Rule—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail (CAT)—Funding Fees. In addition, the Exchange proposes to add paragraph (a)(ii) to Proposed Rule 6.97. New paragraph (a)(ii) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–CBOE–2017–012) [sic].

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 6.97. Paragraph (b) of Proposed Rule 6.97 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 6.97. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 6.97. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the

[15] *See, e.g.,* Chapter XIX of Chicago Board Options Exchange, Incorporated (Hearings and Review); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2017–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–043. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–043, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11743 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80837; File No. SR–MIAX–2017–24]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change To Adopt Exchange Rule 1713 Consolidated Audit Trail—Fee Dispute Resolution

June 1, 2017.

Pursuant to the provisions of section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or the ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 23, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt Exchange Rule 1713 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3] The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 1713 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 1713 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 1713 sets forth the definitions for Proposed Rule 1713. Paragraph (a)(1) of Proposed Rule 1713 states that, for purposes of

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] *See* Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] *See* Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Rel. No. 80675 (May 15, 2017), 82 FR 23100 (May 19, 2017) (SR–MIAX–2017–18).

Rule 1713, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 1701 (Consolidated Audit Trail Compliance Rule—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 1713. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 1713. Paragraph (b) of Proposed Rule 1713 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 1713. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 1713. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [17] in general, and furthers the provisions of section 6(b)(5) of the Act [18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b)(4) of the Act,[19] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members, issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [20] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2017–24. 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/*

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(4).

[20] Approval Order at 84697.

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2017–24, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11748 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80833; File No. SR–BatsEDGX–2017–24]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Members of the Exchange to pay the CAT Fees

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 4.17 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 4.17 sets forth the definitions for Proposed Rule 4.17. Paragraph (a)(1) of Proposed Rule 4.17 states that, for purposes of Rule 4.17, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 4.5 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 4.17. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 4.17. Paragraph (b) of Proposed Rule 4.17 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 4.17. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 4.17. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating

[14] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 10101 (March 21, 2017) (SR–BatsEDGX–2017–08) [sic].

[15] *See, e.g.,* Chapter X of Bats EDGX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGX–2017–24 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2017–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2017–24, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11744 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80838; File No. SR–NYSEArca–2017–61]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

June 1, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 31, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') with respect to the Lead Market Maker (''LMM'') Rights Fee. The Exchange proposes to implement the fee change effective June 1, 2017. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the calculation of the threshold for qualification for the LMM Rights Fee discount.

The LMM Rights Fee is charged ''on a per issue basis to the OTP Firm acting as LMM in the issue.'' [4] The Exchange charges a Rights Fee on each issue in a LMM's allocation, with rates based on the Average National Daily Customer Contracts. LMMs are also able to achieve a 50% discount to their total monthly LMM Rights Fee by achieving an average daily volume (''ADV'') of 50,000 contracts, of which at least 10,000 are within its LMM Appointment (the ''Discount'').[5]

The Exchange proposes to replace the static minimum contract thresholds of 50,000 and 10,000 with market share criteria expressed as a percentage of Total Industry Customer Equity and exchange traded fund (''ETF'') option ADV (''TCADV'').[6] The Exchange believes this proposed modification would enable Market Makers to achieve the Discount more consistently, despite monthly or seasonal fluctuations in industry volume. The Exchange is not proposing to adjust the source of the qualifying volume for each component of the Discount, as this criterion will remain the same.

Specifically, the Exchange proposes the market share requirements for achieving the Discount as follows: ''An LMM with daily contract volume traded electronically of at least 0.40% Total Industry Customer equity and ETF option ADV ('TCADV'), of which 0.08% TCADV are within its LMM appointment, will be charged 50% of the monthly Lead Market Maker Rights Fee.'' [7] The Exchange notes that the TCADV percentages proposed are a

[4] *See* Fee Schedule, *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (NYSE Arca General Options and Trading Permit (OTP) Fee, Lead Market Maker Rights Fee).

[5] *See id.,* endnote 2.

[6] The volume thresholds are based on Market Makers' volume transacted electronically as a percentage of total industry Customer equity and ETF options volumes as reported by the Options Clearing Corporation (the ''OCC''). Total industry Customer equity and ETF option volume is comprised of those equity and ETF contracts that clear in the Customer account type at OCC and does not include contracts that clear in either the Firm or Market Maker account type at OCC or contracts overlying a security other than an equity or ETF security. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports.*

[7] *See* proposed Fee Schedule, endnote 2.

rough equivalent to the existing 50,000 and 10,000 ADV contract thresholds, based on TCADV for the First Quarter of 2017.

The Exchange is not proposing any changes to the amount of the LMM Rights Fees or any of the other available per issue discounts to the LMM Rights Fee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that modifying the qualification calculation for the Discount from a static monthly contract amount to a percentage of TCADV is reasonable, equitable, and not unfairly discriminatory because it would make the Discount more consistently achievable as the calculation will be more aligned with fluctuations in overall monthly industry volume. The Exchange believes the proposed change is not unfairly discriminatory because the proposed benchmark of TCADV is tied to the amount of monthly volume executed on the Exchange, which would incentivize and reward consistent order flow month-to-month. The Exchange notes that other options exchanges likewise utilize percentages of market share as a benchmark in determining eligibility for monthly [sic] certain credits or rebates.[10] The Exchange also believes the proposed change would help to prevent LMMs from achieving the Discount only during periods of heavy volumes or from being penalized (*i.e.,* not achieving the Discount) during months of overall lower volumes on the Exchange. The Exchange notes that there is only one LMM per issue, and only LMMs are subject to the LMM Rights Fee, therefore the proposed discount is not unfairly discriminatory.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. By adjusting the qualifications to a market share basis rather than per contract volume levels, the Exchange believes the proposed change encourages competition without undue burden by being based on a share of overall business rather than a static volume amount.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[12] of the Act and subparagraph (f)(2) of Rule 19b–4[13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–61 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–61. 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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See, e.g.,* Fee Schedule, *supra* note 4 (Customer and Professional Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues and Customer and Professional Customer Posting Credit Tiers In Non Penny Pilot Issues, both based on percentage of TCADV); NASDAQ Options Market fee schedule, *available at, http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing* (NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options based on total industry customer equity and ETF option ADV contracts per day in a month); BATS Options Exchange fee schedule, *available at, http://www.batsoptions.com/support/fee_schedule/* (Market Maker and Non-BATS Market Maker Penny Pilot Add Volume Tiers Market Maker and Non-BATS Market Maker Non Penny Pilot Add Volume Tiers, both based on percentage of total consolidated monthly volume calculated).

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

should refer toFile Number SR–NYSEArca–2017–61, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11749 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80840; File No. SR–NYSEArca–2017–33]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of the Euro Gold Trust, Pound Gold Trust, and the Yen Gold Trust Under NYSE Arca Equities Rule 8.201

June 1, 2017.

I. Introduction

On March 31, 2017, NYSE Arca, Inc. (''NYSE Arca'' 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 to list and trade shares (''Shares'') of the Euro Gold Trust, Pound Gold Trust, and the Yen Gold Trust (each a ''Fund'' and, collectively, the ''Funds'') under NYSE Arca Equities Rule 8.201. On April 12, 2017, the Exchange filed Amendment No. 1 to the proposal, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 19, 2017.[3] On May 23, 2017, the Exchange filed Amendment No. 2 to the proposed rule change,[4] which amended and replaced the proposed rule change as modified by Amendment No. 1. The Commission has not received any comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 2.

II. The Description of the Proposed Rule Change, as Modified by Amendment No. 2[5]

The Exchange proposes to list and trade the Shares, which are a series of the World Currency Gold Trust (''Trust''), under NYSE Arca Equities Rule 8.201.[6] Under NYSE Arca Equities Rule 8.201, the Exchange may list and trade, or trade pursuant to unlisted trading privileges, Commodity-Based Trust Shares.[7]

The Sponsor of the Funds and the Trust will be WGC USA Asset Management Company, LLC (''Sponsor'').[8] BNY Mellon Asset Servicing, a division of The Bank of New York Mellon (''BNYM''), will be the Funds' administrator (''Administrator'') and transfer agent and will not be affiliated with the Trust, the Funds, or the Sponsor. BNYM will also serve as the custodian of the Funds' cash, if any. HSBC Bank plc will be the custodian of the Funds' gold.

The Euro Gold Trust will be designed to track the performance of the Solactive GLD® EUR Gold Index, less the expenses of the Fund's operations. The Solactive GLD® EUR Gold Index seeks to track the daily performance of a long position in physical gold (as represented by the Gold Price, which generally is the London Bullion Markets Association (''LBMA'') Gold Price AM[9]) and a short position in the Euro (*i.e.,* a long U.S. dollar (''USD'') exposure versus the Euro).

The Pound Gold Trust will be designed to track the performance of the Solactive GLD® GBP Gold Index, less the expenses of the Fund's operations. The Solactive GLD® GBP Gold Index seeks to track the daily performance of a long position in physical gold (as represented by the Gold Price) and a short position in the British Pound Sterling (*i.e.,* a long USD exposure versus the British Pound Sterling). The Yen Gold Trust will be designed to track the performance of the Solactive GLD® JPY Gold Index, less the expenses of the Fund's operations. The Solactive GLD® JPY Gold Index seeks to track the daily performance of a long position in physical gold (as represented by the Gold Price) and a short position in the Japanese Yen (*i.e.,* a long USD exposure versus the Japanese Yen). The Japanese Yen, the Euro and the British Pound Sterling are referred to collectively as the ''Reference Currencies.'' Each of the Solactive GLD® EUR Gold Index, Solactive GLD® GBP Gold Index, and Solactive GLD® JPY Gold Index are each referred to as an ''Index,'' and are referred to collectively as the ''Indexes.''

Generally, each Fund's holdings will consist entirely of Gold Bullion.[10] Substantially all of each Fund's Gold Bullion holdings will delivered by Authorized Participants[11] in exchange for Fund Shares. The Funds' Gold Bullion holdings will not be managed and the Funds will not have any investment discretion. The Funds will not hold their respective Reference Currencies. The Funds generally will not hold USDs (except from time to time in very limited amounts to pay Fund expenses).

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[15] 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. 80457 (April 13, 2017), 82 FR 18492.

[4] In Amendment No. 2, the Exchange: (1) Described further the methodology for each underlying index; (2) provided additional information regarding Solactive AG, the ''Index Provider;'' (3) further supported its position that market makers in the Shares will be able to trade the Shares at prices that are not at a material discount or premium to net asset value (''NAV'') per Share; and (4) made additional statements regarding the continued listing requirements applicable to the Shares. The amendments to the proposed rule change are available at: *https://www.sec.gov/comments/sr-nysearca-2017-33/nysearca201733.htm.* Amendment No. 2 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[5] A more detailed description of the Funds, the Shares, the Indexes and the Gold Delivery Agreement (as defined in the Notice), as well as investment risks, creation and redemption procedures, NAV calculation, availability of values and other information regarding the Funds, and fees, among other things, is included in the Registration Statement, *infra* note 6, and Amendment No. 2, *supra* note 4.

[6] On March 30, 2017, the Trust filed with the Commission its initial registration statement on Form S–1 under the Securities Act of 1933 relating to the Funds (File No. 333–217041) (''Registration Statement'').

[7] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

[8] The Trust will be a Delaware statutory trust consisting of multiple series, each of which will issue common units of beneficial interest, which represent units of fractional undivided beneficial interest in and ownership of such series. The term of the Trust and each series will be perpetual (unless terminated earlier in certain circumstances). The sole trustee of the Trust will be Delaware Trust Company.

[9] The ''LBMA Gold Price'' means the price per troy ounce of gold stated in USDs as set via an electronic auction process run twice daily at 10:30 a.m. and 3:00 p.m. London time each Business Day as calculated and administered by the ICE Benchmark Administration Limited and published by the LBMA on its Web site. The ''LBMA Gold Price AM'' is the 10:30 a.m. LBMA Gold Price. *See* Amendment No. 2, *supra* note 4, at 8–9.

[10] Gold Bullion means (a) gold meeting the requirements of ''London Good Delivery Standards'' or (b) credit to an ''Unallocated Account'' representing the right to receive Gold Bullion meeting the requirements of London Good Delivery Standards. London Good Delivery Standards are the specifications for weight dimensions, fineness (or purity), identifying marks and appearance set forth in ''The Good Delivery Rules for Gold and Silver Bars'' published by the LBMA. *See id.* at 6, n.19.

[11] According to the Exchange, Authorized Participants are the only persons that may place orders to create and redeem Creation Units and such persons must enter into a Participant Agreement. *See id.* at 18.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposed rule change to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[13] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation, last-sale, trading volume, and closing price information for the Shares will be available over the Consolidated Tape.

Additionally, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[14] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. The Funds' Web site will provide an indicative intraday value (''IIV'') per Share, updated every 15 seconds during the Exchange's Core Trading Session. The IIV will be calculated based on the amount of gold held by the Fund, a price of gold derived from updated bids and offers indicative of the spot price of gold, and an intra-day exchange rate for each Reference Currency against the U.S. dollar.[15] The Exchange states that the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[16] Additionally, the Funds' Web site will publish the Creation Basket Deposit and the NAV.[17] Each Index value generally will be calculated daily, using the daily LBMA Gold Price AM and the Spot Rate [18] as of 9:00 a.m., London time, and it will be available from one or more major market data vendors and will be available during the Exchange's Core Trading Session.

The Exchange represents that market participants will recalculate approximate intraday Index values using reliable intraday prices of gold and Reference Currencies to identify arbitrage opportunities that present themselves during the Exchange's Core Trading Session.[19] In particular, the Exchange states that market makers in the Shares will be able to hedge their positions in the Shares by entering into spot gold and spot currency transactions in the Reference Currencies. Those spot transactions would take place during the Exchange's Core Trading session, when the currency and gold markets are highly liquid according to the Exchange.[20] The Exchange expects that those hedging transactions will facilitate a market maker's ability to trade Shares at a price that is not at a material discount or premium to the NAV.[21]

As mentioned above,[22] the Index Values, which impact the NAVs of the Funds, are calculated using the Spot Rates. Each Spot Rate is calculated by WM/Reuters (''WMR'') using observable data from arms-length transactions between buyers and sellers in the applicable currency market.[23] The Exchange represents that WMR utilizes the same methodology to calculate the Spot Rate as it does to calculate the NAV for certain issues of Currency Trust Shares, the listing and trading of which the Commission approved.[24] The Commission believes that the markets for the Reference Currencies (*i.e.,* the Japanese Yen, Euro and British Pound Sterling) and gold are deep and liquid. For these reasons, and in light of the Exchange's representations that the Index methodologies are transparent,[25] the Commission presently has no reason to believe that the Indexes are susceptible to manipulation.

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange may halt trading in the Shares because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. The Exchange will halt trading in the Shares if the NAV is not calculated or disseminated daily.[26] The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV or the Index value; if the interruption to the dissemination of the IIV or the Index value persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[27] In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.

Additionally, the Commission notes that market makers in the Shares would be subject to the requirements of NYSE Arca Equities Rule 8.201(g), which allow the Exchange to ensure that they do not use their positions to violate the requirements of Exchange rules or applicable federal securities laws.[28]

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.201.

(2) The Exchange deems the Shares to be equity securities, thus rendering the

[12] 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).

[13] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Amendment No. 2, *supra* note 4, at 23, text accompanying n.30.

[16] *See id.* at 28.

[17] *See id.* at 23. The Funds also will publish the following information on their Web site: (1) The mid-point of the bid-ask price as of the close of trading (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Fund's prospectus, as well as the two most recent reports to stockholders; and (4) the last-sale price of the Shares as traded in the U.S. market. *See id.* at 23.

[18] A ''Spot Rate'' is the rate at which a Reference Currency can be exchanged for USDs on an immediate basis, subject to the applicable settlement cycle. *See id.* at 10.

[19] *See id.* at 22.

[20] *See id.* The Exchange states that there is a considerable amount of information about gold and currency prices available on public Web sites and through professional and subscription services. For example, according to the Exchange, investors may obtain on a 24-hour basis gold pricing information, as well as pricing information for the Reference Currencies from various financial information service providers. *See id.*

[21] *See id.*

[22] *See supra* note 18 and accompanying text.

[23] *See* Amendment No. 2, *supra* note 4, at 11, n.25.

[24] *See id.* at 11, n.24.

[25] *See id.* at 8.

[26] *See id.* at 25.

[27] *See id.*

[28] The Commission notes that Commentary .04 of NYSE Arca Equities Rule 6.3 requires that an ETP Holder acting as a registered market maker in the Shares, and its affiliates, establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

trading of the Shares subject to the Exchange's existing rules governing the trading of equity securities.

(3) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.[29]

(4) The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.[30]

(5) The Index Provider, which is not affiliated with a broker-dealer, has adopted policies and procedures designed to prevent the spread of material non-public information about the Indexes.[31]

(6) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[32]

(7) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[33]

(8) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (4) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (5) trading information.

(9) All statements and representations made in this filing regarding (a) the description of the applicable Indexes, portfolios or reference assets, (b) limitations on Index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing constitute continued listing requirements for listing the Shares on the Exchange.[34]

(10) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the NYSE Arca Equities Rule 5.5(m).

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2, and the Exchange's description of the Funds.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act [35] and the rules and regulations thereunder applicable to a national securities exchange.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[36] that the proposed rule change (SR–NYSEArca–2017–33), as modified by Amendment No. 2 be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11750 Filed 6–6–17; 8:45 am]

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[29] *See id.* at 24.

[30] *See id.* at 26.

[31] *See id.* at 8.

[32] *See id.* at 25–26. FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. *See id.* at 25, n.33.

[33] For a list of the current members of ISG, *see www.isgportal.org.*

[34] *See* Amendment No. 2, *supra* note 4, at 26.

[35] 15 U.S.C. 78f(b)(5).

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80831; File No. SR–BOX–2017–19]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt Rule 16100 (Consolidated Audit Trail—Fee Dispute Resolution) To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 2017, BOX Options Exchange LLC (the ''Exchange'' or ''SRO'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Rule 16100 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, SRO has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are SRO members to pay the CAT Fees determined by the Operating Committee.[14] SRO submits this rule filing to adopt Rule 16100 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 16100 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 16100 sets forth the definitions for Proposed Rule 16100. Paragraph (a)(1) of Proposed Rule 16100 states that, for purposes of Rule 16100, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 16010 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, SRO proposes to add paragraph (a)(2) to Proposed Rule 16100. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. SRO proposes to adopt paragraph (b) of Proposed Rule 16100. Paragraph (b) of Proposed Rule 16100 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 16100. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 16100. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] Securities Exchange Act Release No. 80721 (May 18, 2017), 82 FR 23864 (May 24, 2017) (Notice of Filing and Immediate Effectiveness SR–BOX–2017–16).

apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

Act,[17] which require, among other things, that the SRO rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that SRO rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–19, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11742 Filed 6–6–17; 8:45 am]

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[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 5 U.S.C. 78f(b)(8)

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80836; File No. SR–BatsBYX–2017–13]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Members of the Exchange to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 4.17 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 4.17 sets forth the definitions for Proposed Rule 4.17. Paragraph (a)(1) of Proposed Rule 4.17 states that, for purposes of Rule 4.17, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 4.5 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 4.17. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 4.17. Paragraph (b) of Proposed Rule 4.17 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 4.17. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 10101(March 21, 2017) (SR–BatsBYX–2017–02) [sic].

charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 4.17. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT

[15] *See, e.g.,* Chapter X of Bats BYX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBYX–2017–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2017–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the 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–BatsBYX–2017–13, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11747 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80834; File No. SR–BatsBZX–2017–39]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Members of the Exchange to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 4.17 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 4.17 sets forth the definitions for Proposed Rule 4.17. Paragraph (a)(1) of Proposed Rule 4.17 states that, for purposes of Rule 4.17, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 4.5 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 4.17. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 4.17. Paragraph (b) of Proposed Rule 4.17 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–BatsBZX–2017–08) [sic].

Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 4.17. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 4.17. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means

[15] *See, e.g.,* Chapter X of Bats BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–39. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2017–39, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11745 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80843; File No. SR–FINRA–2017–016]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 7620A To Eliminate the No/Was Corrective Transaction Charge

June 1, 2017.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7620A (FINRA/Nasdaq Trade Reporting Facility Reporting Fees) to eliminate the ''No/Was'' corrective transaction charge from the fee schedule for members that use the FINRA/Nasdaq Trade Reporting Facility (the ''FINRA/Nasdaq TRF'') in light of the elimination of No/Was functionality.

Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in brackets.

* * * * *

7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS, AND FACILITY CHARGES

* * * * *

7600. DATA PRODUCTS AND CHARGES FOR TRADE REPORTING FACILITY SERVICES

7600A. DATA PRODUCTS AND CHARGES FOR FINRA/NASDAQ TRADE REPORTING FACILITY SERVICES

* * * * *

7620A. FINRA/Nasdaq Trade Reporting Facility Reporting Fees

The following charges shall be paid by participants for use of the FINRA/Nasdaq Trade Reporting Facility. In the case of trades where the same market participant is on both sides of a trade report, applicable fees assessed on a ''per side'' basis will be assessed once, rather than twice, and the market participant will be assessed applicable Non-Comparison/Accept (Non-Match/Compare) Charges as the Executing Party side only.

Non-comparison/accept (Non-match/compare) charges:	
Tape	Daily Average Number of Media/Executing Party Trades During the Month Needed to Qualify for Cap.
A	2500
B	2500
C	2500
Media/Executing Party	
Monthly Charge	Maximum Monthly Charge if Capped.
($0.018) × (Number of Media/Executing Party Reports During the Month).	($0.018) × (Required Daily Average Number of Media/EP Trades for Tape A, B or C) × (Number of Trading Days During the Month).
Non-Media/Executing Party	
Monthly Charge	Maximum Monthly Charge if Capped.
($0.018) × (Number of Non-Media/Executing Party Reports During the Month).	($0.018) × 2500 for Tape A, B or C × (Number of Trading Days During the Month).
Media/Contra	
Monthly Charge	Maximum Monthly Charge if Capped.
($0.013) × (Number of Media/Contra Reports During the Month)	($0.013) × 2500 for Tape A, B or C × (Number of Trading Days During the Month).
Media/Contra Cap	
Participants making markets in alternative trading systems registered pursuant to Regulation ATS will qualify for a fee cap applied to all trades under Rule 7620A if they meet the following criteria on a monthly basis:	
• Participant's percentage of contra media trades must represent at least 35% of their total FINRA/Nasdaq Trade Reporting Facility volume.	

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Non-comparison/accept (Non-match/compare) charges:	
• Participant must be contra to a minimum of 1,000,000 trades in Tape A, 500,000 trades in Tape C and 250,000 trades in Tape B. • Participant must complete an attestation form stating that they maintain a two-sided quote in each symbol traded on an alternative trading system registered pursuant to Regulation ATS and display a quotation size of at least one normal unit of trading (specific for each security) thereon. Participants will be audited by Nasdaq, Inc. periodically.	
Maximum Monthly Charge if Capped	$5,000 per Tape (A, B or C).
Non-Media/Contra	
Monthly Charge	Maximum Monthly Charge if Capped
($0.013) × (Number of Non-Media/Contra Reports During the Month)	($0.013) × 2500 for Tape A, B or C × (Number of Trading Days During the Month).
Standard Fees:	
Clearing report to transfer a transaction fee charged by one member to another member pursuant to Rule 7230A(h).	$0.03/side.
Comparison/Accept	$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares).
Late Report—T+N	$0.288/trade (charged to the Executing Party).
Query	$0.50/query.
Corrective Transaction Charge	$0.25/Cancel, Error, Inhibit, *or* Kill[, or ''No'' portion of No/Was transaction], paid by reporting side; $0.25/Break, Decline transaction, paid by each party.

• • • Supplementary Material:

.01 through .02 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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 FINRA/Nasdaq TRF is a facility of FINRA that is operated by Nasdaq, Inc. and utilizes Automated Confirmation Transaction (''ACT'') Service technology. In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and Nasdaq, Inc. entered into a limited liability company agreement (the ''LLC Agreement'').[5] Under the LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the FINRA/Nasdaq TRF. Nasdaq, Inc., the ''Business Member,'' is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs, including establishing pricing for use of the FINRA/Nasdaq TRF, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.

Pursuant to the FINRA Rule 7600A Series, FINRA members that are FINRA/Nasdaq TRF participants are charged fees and may qualify for fee caps (Rule 7620A) and also may qualify for revenue sharing payments for trade reporting to the FINRA/Nasdaq TRF (Rule 7610A). These rules are administered by Nasdaq, Inc., in its capacity as the Business Member and operator of the FINRA/Nasdaq TRF on behalf of FINRA,[6] and Nasdaq, Inc. collects all fees on behalf of the FINRA/Nasdaq TRF.

FINRA/Nasdaq TRF participants are required to correct trade reports that are inaccurate and may use one of several FINRA/Nasdaq TRF functions (collectively referred to herein as ''Corrective Transactions'') to do so, including ''No/Was.'' Firms would use a No/Was submission to correct the details of a trade reported earlier in the day. Under FINRA Rule 7620A, FINRA/Nasdaq TRF participants are assessed a fee of $0.25 for Corrective Transactions, including No/Was submissions. FINRA notes that the Corrective Transaction fee is the same, irrespective of the functionality used to correct the trade. In addition to the Corrective Transaction fee, reporting firms are also assessed the applicable fee for submission of the corrected or replacement trade report.[7]

On September 15, 2016, Nasdaq, Inc., as the Business Member, provided notice that effective October 31, 2016, the FINRA/Nasdaq TRF would no longer support No/Was functionality.[8] According to Nasdaq, Inc., the No/Was logic added complexity to the system with no real benefit, since the

[5] As approved by its board of directors and the Commission, effective September 8, 2015, The NASDAQ OMX Group, Inc. changed its legal name to Nasdaq, Inc. *See* Nasdaq, Inc. Form 8–K Current Report (filed September 8, 2015) (available at *www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm*). FINRA and Nasdaq, Inc. are in the process of amending the LLC Agreement to reflect the name change, and FINRA will file a separate proposed rule change to update the FINRA manual accordingly.

[6] FINRA's oversight of this function performed by the Business Member is conducted through a recurring assessment and review of TRF operations by an outside independent audit firm.

[7] Due to their nature, Corrective Transactions consume system capacity and staff resources disproportionate to those required for standard reporting transactions, and disproportionate to the fee imposed for standard reporting functions. Thus, to cover a portion of the costs of processing Corrective Transactions, the FINRA/Nasdaq TRF assesses a Corrective Transaction Charge to such transactions.

[8] *See* Nasdaq Equity Trader Alert #2016–179 (available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2016-179*).

functionality may be replicated by FINRA/Nasdaq TRF participants by simply cancelling the original report and submitting a corrected report. Nasdaq, Inc. has advised FINRA that prior to the disablement of the functionality, the volume of No/Was transactions was de minimis. For example, there were fewer than 850 No/Was submissions on average per month during the period from January through July 2016. By contrast, there were 841,000 total Corrective Transaction submissions on average per month during that same period (*i.e.,* No/Was submissions accounted for approximately one tenth of one percent of all Corrective Transaction submissions).

To ensure that the fee schedule under FINRA rules accurately reflects current FINRA/Nasdaq TRF functionality, FINRA is proposing to eliminate the reference to No/Was submissions for purposes of the Corrective Transaction charge under Rule 7620A.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date will be the date of filing, May 23, 2017.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act,[9] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. All similarly situated members are subject to the same fee structure, and access to the FINRA/Nasdaq TRF is offered on fair and non-discriminatory terms.

Nasdaq, Inc., as the Business Member, has advised FINRA that it eliminated No/Was functionality effective October 31, 2016 to reduce complexity in the FINRA/Nasdaq TRF system and that such functionality can readily be replicated by participants. The proposed rule change merely deletes the reference to No/Was Corrective Transactions in Rule 7620A to ensure that the fee schedule accurately reflects current FINRA/Nasdaq TRF functionality. As such, the proposed rule change provides for the equitable allocation of reasonable fees for use of the FINRA/Nasdaq TRF.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change merely deletes the reference to No/Was Corrective Transactions in Rule 7620A to ensure that the fee schedule accurately reflects current FINRA/Nasdaq TRF functionality. As discussed above, No/Was functionality was eliminated, but may be replicated by FINRA/Nasdaq TRF participants by simply canceling the incorrect trade report and submitting a corrected trade report, and firms would incur the same charge, irrespective of the type of Corrective Transaction submitted.[10] As such, the proposed rule change will have no fee impact on firms for Corrective Transaction submissions to the FINRA/Nasdaq TRF.[11]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [12] and paragraph (f)(2) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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–FINRA–2017–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2017–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2017–016, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11752 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78*o*–3(b)(5).

[10] Also, as discussed above, the volume of No/Was transactions was de minimis prior to the disablement of the functionality, accounting for approximately one tenth of one percent of all Corrective Transaction submissions from January through July 2016.

[11] FINRA also believes that the elimination of the No/Was functionality itself had little to no cost impact on firms, and did not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80835; File No. SR–BatsEDGA–2017–14]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Rule 4.17, Consolidated Audit Trail—Fee Dispute Resolution

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2017, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Members of the Exchange to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 4.17 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 4.17 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 4.17 sets forth the definitions for Proposed Rule 4.17. Paragraph (a)(1) of Proposed Rule 4.17 states that, for purposes of Rule 4.17, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 4.5 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 4.17. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 10101 (March 21, 2017) (SR–BatsEDGA–2017–03) [sic].

fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 4.17. Paragraph (b) of Proposed Rule 4.17 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 4.17. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 4.17. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or

[15] *See, e.g.,* Chapter X of Bats EDGA Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer, and Section 15A(b)(5) [sic] of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78o–3(b)(5) [sic].

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGA–2017–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2017–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2017–14, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11746 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80845; File No. SR–IEX–2017–19]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove the Ten (10) Price Level Limitation on Aggregated Depth of Book Quotations Disseminated on the IEX Data Platform, and To Add Rule 11.330(a)(5) To Offer Historical Data

June 1, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 23, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''), and Rule 19b–4 thereunder, Investors Exchange LLC (''IEX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend Rule 11.330(a)(2) to remove the ten (10) price level limitation on aggregated depth of book quotations for all displayed orders resting on the Order Book disseminated on the IEX Data Platform; and to add Rule 11.330(a)(5) to offer Historical Data (''HIST''), an additional data product that offers historical data. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.330(a)(2) to remove the ten (10) price level limitation on aggregated depth of book quotations for all displayed orders resting on the Order Book disseminated on the IEX Data Platform; and to add Rule 11.330(a)(5) to offer Historical Data (''HIST''), an additional data product that offers historical data. Currently, Rule 11.330(a)(2) states that the IEX Data Platform is a data feed, available through the Exchange's public Web site, that offers aggregated top of book quotations for all displayed orders resting on the Order Book, aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels, and execution information (*i.e.,* last sale information) for executions on the Exchange. The Exchange believes that market participants that make use of the IEX Data Platform would benefit from receiving all aggregated depth of book quotations for all orders resting on the Order Book at every price level, in the same manner that such information is disseminated over IEX DEEP.[4] Accordingly, the Exchange proposes to amend Rule 11.330(a)(2) to offer aggregated depth of book quotations on the IEX Data Platform for all displayed orders resting on the Order Book at each price level, rather than providing only ten (10) price levels. The IEX Data Platform will continue to offer aggregated top of book quotations for all displayed orders resting on the Order Book, and execution information (*i.e.,* last sale information) for executions on the Exchange. Furthermore, the IEX Data Platform will continue to be provided free of charge. In addition, after informal discussions with market participants and other users, the Exchange has determined that there is demand for historical market data related to quotations and transaction information on the Exchange. Accordingly, the Exchange is proposing to offer HIST, a data product that offers historical data for download from the Exchange's public Web site. HIST will include the same substantive data that is provided in real time via TOPS and DEEP on a T+1 basis via the Exchange's public Web site, free of charge.

As is the case currently with respect to TOPS, DEEP and the IEX Data Platform, the aggregated best bid and offer (''BBO'') and last sale information disseminated through the proposed IEX Data Platform will be reported under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. The Exchange will release such information to the IEX Data Platform in compliance with Rule 603(a) of Regulation NMS, which requires that exchanges distribute market data on terms that are ''fair and reasonable'' and ''not unreasonably discriminatory,'' and prohibits an exchange from releasing data relating to quotes and trades to its customers through proprietary feeds before it sends its quotes and trade reports for inclusion in the consolidated feeds.[5]

The Exchange plans to implement the proposed changes on May 15, 2017, which is the scheduled launch date of IEX DEEP, and the IEX Data Platform.[6]

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* IEX Rule 11.330(a)(3), describing IEX DEEP.

[5] *See* Regulation NMS, 70 FR 37,496, 37,567 (June 29, 2005) (adopting release); *see also* Concept Release, 75 FR at 3601 (January 21, 2010).

[6] *See* IEX Trading Alert #2017–011, April 19, 2017 (*https://www.iextrading.com/trading/alerts/2017/011/*). The Commission notes that the Exchange originally filed the proposed rule change on May 12, 2017 (SR–IEX–2017–17) but withdrew that filing and replaced it with the current filing on May 23, 2017.

of Section 6 of the Act[7] in general, and with Section 6(b)(5) of the Act,[8] in particular. The IEX Data Platform as well as HIST will be provided consistent with the purposes of Section 6(b)(5) of the Act.[9] Moreover, the proposed rule change is not designed to permit unfair discrimination among customers, issuers, and brokers; and is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system by providing quotation and transaction information to market participants via the IEX Data Platform, available via the Exchange's public Web site, thereby promoting broad price discovery and market efficiency. Furthermore, HIST will provide market participants, academics, and other users, the ability to analyze and make use of the Exchange's historical quotations and transaction information, thereby promoting transparency and accessibility to Exchange data products for a variety of purposes. For instance, data recipients that wish to back-test certain trading strategies can use HIST for such a purpose. As another example, data recipients that provide market information through public Web sites or develop dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can also use HIST for such purposes. The Exchange notes that similar historical data products are offered by other market centers.[10] The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it is designed to protect investors and the public interest and promote just and equitable principles of trade by providing greater transparency regarding displayed orders in the IEX System on a historical basis through HIST and in real-time through the IEX Data Platform. Further, the proposal would not permit unfair discrimination because the information will be available to all market participants and market data vendors on an equivalent basis, and without charge.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[11] in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[12] which provides that any national securities exchange which distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are fair and reasonable and not unreasonably discriminatory. Moreover, as noted above, the Exchange will provide the IEX Data Platform as well as HIST to Members and other recipients of Exchange data on terms that are fair and reasonable and not unreasonably discriminatory in that both HIST and the IEX Data Platform will be provided free of charge. Furthermore, HIST and the IEX Data Platform would be accessible on a voluntary basis, in that market data distributors are not required by any rule or regulation to make this data available. Accordingly, distributors and subscribers can discontinue their use at any time and for any reason.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is not proposing to charge a fee for HIST or the IEX Data Platform, and will make them both available to market participants on a fair and impartial basis, and on terms that are not unreasonably discriminatory. In addition, the Exchange believes that providing both historical TOPS and DEEP data through HIST, as well as aggregated depth of book quotations for each price level on the IEX Data Platform, as described above, is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing investors with alternative market data, as well as to compete with other exchanges that offer similar market data products, such as those currently offered by the New York Stock Exchange, Inc. (''NYSE''), the Nasdaq Stock Market LLC (''Nasdaq''), and BZX Exchange, Inc. (''Bats'').[13]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and subparagraph (f)(6) Rule 19b–4 thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b–4(f)(6) becomes effective. The Exchange states that the proposed rule change will provide market participants and other users

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

[9] 15 U.S.C. 78f(b)(5).

[10] *See e.g.,* Bats Rule 11.22(h); NASDAQ Rule 7022; *see also www.nyxdata.com* for information regarding NYSE OpenBook History and ArcaBook FTP, historical data products offered by the NYSE and NYSE Arca, respectively.

[11] 15 U.S.C. 78k–1.

[12] *See* 17 CFR 242.603.

[13] *See, e.g.,* Nasdaq Rule 7023(a)(1)(C), which describes the Nasdaq TotalView as a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center; *See* also NYSE OpenBook Aggregated, available at *http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421,* which provides a real-time view of the NYSE limit order book including the aggregated size at each price level; *See* Bats Rule 11.22(a) and 11.22(c), which describe the Bats TCP Depth and Multicast Depth feeds as an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System. As noted above, *see* also Bats Rule 11.22(h); NASDAQ Rule 7022; *see* also *www.nyxdata.com* for information regarding NYSE OpenBook History and ArcaBook FTP, historical data products offered by the NYSE and NYSE Arca, respectively.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

greater transparency regarding displayed orders in the IEX System through HIST and the IEX Data Platform thereby promoting broad price discovery and market efficiency, and will not remove or eliminate any data that is currently available to market participants, consistent with the protection of investors and the public interest. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will provide to investors, without undue delay, public access to, and thus greater transparency regarding, displayed orders, including historical data, free of charge. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[18]

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2017–19. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its Internet Web site at *www.iextrading.com.* 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–IEX–2017–19 and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11754 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[18] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Release Act No. 32667; 812–14193–01]

Partners Group (USA) Inc., et al.

DATE: June 1, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Partners Group Private Equity (Master Fund), LLC (the ''Fund''); Partners Group Private Income Opportunities, LLC (''Partners Group Private Income Opportunities''); Partners Group (USA) Inc. (''Partners Group''); Partners Group AG (''Partners Group AG''); Partners Group (UK) Limited (''Partners Group UK''); Partners Group (Luxembourg) S.A. (''Partners Group Lux''); Partners Group (Guernsey) Limited (''Partners Group Guernsey''); Partners Group Cayman Management I Limited (''PGCM I''); Partners Group Cayman Management III Limited (''PGCM III''); Partners Group Management Limited (''PGML''); Partners Group Management I S.à r.l. (''PGMS I''); Partners Group Management II Limited (''PGML II''); Partners Group Management III S.à r.l. (''PGMS III''); Partners Group Management IX Limited (''PGML IX''); Partners Group Management V Limited (''PGML V''); Partners Group Management VII Limited (''PGML VII''); Partners Group Management VIII Limited (''PGML VIII''); Partners Group Management XI Limited (''PGML XI''); Partners Group Management XIII Limited (''PGML XIII''); Princess Management Limited (''Princess'' and collectively with Partners Group Guernsey, Partners Group UK, PGCM I, PGCM III, PGML, PGMS I, PGML II, PGMS III, PGML IX, PGML V, PGML VII, PGML VIII, PGML XI and PGML XIII, the ''General Partner Advisers''); and Partners Group (Italy) Global Value 2014; Partners Group Direct Equity 2016 (EUR) G, L.P. Inc.; Partners Group Direct Equity 2016 (EUR) S.C.A., SICAV–SIF; Partners Group Direct Equity 2016 (EUR), L.P. Inc.; Partners Group Direct Equity 2016 (USD) A, L.P.; Partners Group Direct Equity 2016 (USD) C, L.P.; Partners Group Direct Equity 2016 (USD) C–G, L.P.; Partners Group Direct Equity 2016 (USD) C–I, L.P.; Partners Group Direct Infrastructure 2015 (EUR) S.C.A., SICAV–SIF; Partners Group Direct Infrastructure 2015 (USD), L.P. Inc.; Partners Group Direct Infrastructure 2016 (USD) A, L.P.; Partners Group Emerging Markets 2015, L.P. Inc.; Partners Group Generations Fund I; Partners Group Global Growth 2014, L.P. Inc.; Partners Group Global Infrastructure 2012, L.P. Inc.; Partners Group Global Infrastructure 2015 (EUR) S.C.A., SICAV–SIF; Partners Group Global Infrastructure 2015 (EUR), L.P. Inc.; Partners Group Global Infrastructure SICAV; Partners Group Global Multi-Asset Fund; Partners

Group Global Value 2014 (EUR) S.C.A., SICAR; Partners Group Global Value 2014, L.P. Inc.; Partners Group Global Value SICAV; Partners Group Growth Strategies 2016 S.C.A., SICAV–RAIF; Partners Group Private Equity Performance Holding Limited; Partners Group Secondary 2015 (EUR) S.C.A., SICAV–SIF; Partners Group Secondary 2015 (EUR), L.P. Inc.; Partners Group Secondary 2015 (USD) A, L.P.; Partners Group Secondary 2015 (USD) C, L.P.; Partners Group U.S. Private Equity 2015 L.P. S.C.S., SICAV–SIF; Princess Private Equity Holding Limited; The Partners Fund SICAV and The Partners Fund (the ''Existing Affiliated Funds'').

FILING DATES: The application was filed on August 2, 2013, and amended on August 11, 2014, January 13, 2016, May 4, 2017, and June 1, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 26, 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: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 1114 Avenue of the Americas, 37th Floor, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

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' Representations

1. The Fund [1] is a Delaware limited liability company that is registered as a closed-end management investment company under the Act. The Fund's investment objective is to seek attractive long-term capital appreciation by investing in a globally diversified portfolio of private equity investments. The board of directors of the Fund (the ''Fund Board'') is currently comprised of three managers, two of whom are not ''interested persons,'' within the meaning of Section 2(a)(19) of the Act (the ''Non-Interested Directors''), of the Fund.

2. Partners Group Private Income Opportunities is a Delaware limited liability company that is registered as a closed-end management investment company under the Act. Partners Group Private Income Opportunities' investment objective will be to generate attractive risk-adjusted returns and current income by investing in a diversified portfolio of predominantly credit-related opportunities. The board of managers of Partners Group Private Income Opportunities (the ''PGPIO Board'') [2] is currently comprised of five managers, four of whom are Non-Interested Directors of Partners Group Private Income Opportunities.

3. Each of the Existing Affiliated Funds would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

4. Partners Group is a Delaware corporation and an investment adviser registered with the Commission under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). Partners Group serves as investment adviser to the Fund and Partners Group Private Income Opportunities. Partners Group is a wholly-owned subsidiary of Partners Group Holding AG, a corporation organized in Switzerland.

5. Partners Group AG is a corporation organized in Switzerland and is an exempt reporting adviser under the Advisers Act. Partners Group AG is registered with the Swiss Financial Markets Authority (FINMA) and provides investment recommendations to Partners Group with respect to its clients' portfolios. While Partners Group AG may provide investment recommendations to Partners Group, Partners Group maintains ultimate investment discretion as to whether such recommendations will translate into investments made by its clients.

6. Partners Group Guernsey is a company limited by shares organized in Guernsey and is an exempt reporting adviser under the Advisers Act. Partners Group Guernsey is registered with the Guernsey Financial Services Commission (GFSC) and provides administrative and in particular investment execution services to Partners Group with respect to its clients. Partners Group Guernsey also serves as General Partner Adviser to Affiliated Funds.

7. Partners Group UK is a foreign private adviser under the Advisers Act, formed as a private limited company in the United Kingdom. Partners Group UK is registered with the UK Financial Conduct Authority (FCA) and provides investment management or advisory services to certain Affiliated Funds.

8. Partners Group Lux is an exempt reporting adviser under the Advisers Act, formed as a société anonyme in Luxembourg. Partners Group Lux is registered with the Luxembourg Commission de Surveillance du Secteur Financier (CSSF) and provides administrative, domiciliary, depositary and/or investment management or advisory services to certain Affiliated Funds.

9. As described more fully in the application, each General Partner Adviser serves as the general partner or fund manager of one or more Affiliated Funds. Investment decisions are made by affiliated investment committees and the respective General Partner signs-off or otherwise ratifies such decisions. Other than Partners Group UK, each General Partner Adviser is an exempt reporting adviser.

10. Applicants seek an order (''Order'') to permit one or more Regulated Funds and/or one or more Affiliated Funds [3] to participate in the

[1] The Fund, Partners Group Private Income Opportunities, and any Future Regulated Fund are referred to individually as a ''Regulated Fund,'' and collectively as the ''Regulated Funds.'' ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act, (b) whose investment adviser is an Adviser (defined below) that is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''), and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means (a) Partners Group, Partners Group AG, Partners Group UK, Partners Group Lux and each General Partner Adviser, and (b) any future investment adviser that controls, is controlled by or is under common control with Partners Group, Partners Group AG, Partners Group UK, Partners Group Lux or any General Partner Adviser and is either registered as an investment adviser under the Advisers Act or is an exempt reporting adviser or a foreign private adviser.

[2] The Fund Board, the PGPIO Board and any board of managers, board of directors or board of trustees of a Future Regulated Fund are each referred to herein as a ''Board'' and collectively the ''Boards,'' as applicable.

[3] The term ''Affiliated Fund'' means any of the Existing Affiliated Funds and any Future Affiliated

Continued

same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 17(d) and the rules under the Act (the ''Co-Investment Program'').[4] A ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Subsidiary, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the Order. A ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Subsidiary, as defined below) could not participate together with one or more Regulated Funds and/or one or more Affiliated Funds without obtaining and relying on the Order.

11. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subsidiaries.[5] A Wholly-Owned Investment Subsidiary would be prohibited from investing in a Co-Investment Transaction with another Regulated Fund or any Affiliated Fund because it would be a company controlled by the applicable Regulated Fund for purposes of sections 17(d) and rule 17d–1. Applicants request that a Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of the applicable Regulated Fund, and that such Wholly-Owned Investment Subsidiary's participation in any such transaction be treated, for purposes of the requested Order, as though the Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between such Regulated Fund and its respective Wholly-Owned Investment Subsidiaries. The Board of the Regulated Fund would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary's participation in a Co-Investment Transaction, and the Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Subsidiary in place of the Regulated Fund. If a Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subsidiaries, its Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Subsidiary.

12. When considering Potential Co-Investment Transactions for any Regulated Fund, an Adviser will consider only the Objectives and Strategies,[6] investment policies, investment positions, capital available for investment,[7] and other pertinent factors applicable to that Regulated Fund. Each Adviser, as applicable, undertakes to perform these duties consistently for each Regulated Fund, as applicable, regardless of which of them serves as investment adviser to these entities. The participation of a Regulated Fund in a Potential Co-Investment Transaction may only be approved by a Required Majority, as defined in section 57(o) of the Act (a ''Required Majority''), of the directors of the Board eligible to vote on that Co-Investment Transaction under section 57(o) (the ''Eligible Directors'').[8] Due to the similarity in Objectives and Strategies of certain Regulated Funds with the investment objectives, policies and strategies of certain Affiliated Funds, the Adviser expects that investments for a Regulated Fund should also generally be appropriate investments for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on available capital, diversification, investment objectives, policies and strategies.[9]

13. With respect to participation in a Potential Co-Investment Transaction by a Regulated Fund, the applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation of each investment opportunity to the Eligible Directors. The Required Majority of a Regulated Fund will approve each Co-Investment Transaction prior to any investment by the Regulated Fund.

14. With respect to the pro rata dispositions and Follow-On Investments[10] provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Affiliated Fund and Regulated Fund in such disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the applicable Board has approved such Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of such Regulated Fund. If the Board of the applicable Regulated Fund does not so approve, any such disposition or Follow-On Investment will be submitted to the Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify their respective approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

15. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than through an interest in the securities of a Regulated Fund.

16. Applicants represent that if an Adviser or its principal owners (the ''Principals''), or any person controlling, controlled by, or under common control

Fund. ''Future Affiliated Fund'' means an entity (a) whose investment adviser is an Adviser and (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (iii) that intends to participate in the Co-Investment Program.

[4] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

[5] The term ''Wholly-Owned Investment Subsidiary'' means an entity (a) whose sole business purpose is to hold one or more investments on behalf of a Regulated Fund; (b) that is wholly-owned by a Regulated Fund (with such Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (c) with respect to which the Board of the Regulated Fund has the sole authority to make all determinations with respect to the Wholly-Owned Investment Subsidiary's participation under the conditions of the application; and (d) that is and entity that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[6] The term ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies as described in the Regulated Fund's registration statement, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''1933 Act'') or the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[7] Capital available for investment will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set from time to time by the Board of the applicable Regulated Fund or imposed by applicable laws, rules, or regulations or interpretations.

[8] Although each Regulated Fund will be a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o) of the Act.

[9] A Regulated Fund, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[10] ''Follow-On Investment'' means any additional investment in an existing portfolio company whose securities were acquired in a Co-Investment Transaction, including the exercise of warrants, conversion privileges or other similar rights to acquire additional securities of the portfolio company.

with an Adviser or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of a Regulated Fund (''Shares''), then the Holders will vote such Shares as required under condition 14. Applicants believe that this condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of an Adviser or the Principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. The Non-Interested Directors shall evaluate and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors they deem relevant.

17. As discussed in more detail in the application, all of Applicants' investment activities are conducted within a global, centralized investment committee and allocation process and overseen by a unified, global compliance program. Applicants represent that the global processes and compliance program would ensure that (a) the Commission and its staff have complete transparency into the Co-Investment Program and the Advisers involved with the Co-Investment Program through its access to Partners Group and (b) the Co-Investment Program would be subject to Commission and staff oversight. Applicants acknowledge that this global compliance program will be a key element in ensuring that the proposed Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission will consider whether the participation by the Regulated Fund in such joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Applicants state that the Co-Investment Program will increase favorable investment opportunities for the Regulated Funds and allow the Regulated Funds to participate in attractive opportunities at levels that are appropriate. The conditions are designed to ensure that the Advisors would not be able to favor any Regulated Fund or Affiliated Funds over other Regulated Funds through the allocation of investment opportunities among them. Applicants state that the Regulated Fund's participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's ''capital available for investment'' in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of the Regulated Fund; and

(B) the Regulated Funds then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund, Affiliated Fund or Adviser, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors, the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director, board observer or participant, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or

management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except

(A) to the extent permitted by condition 13;

(B) to the extent permitted by section 17(e) of the Act;

(C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction; or

(D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date and registration rights will be identical for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of a portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in this Application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in this application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each participant's ''capital available for investment'' in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. Each Regulated Fund will maintain the records required by Section 57(f)(3) of the Act as if each of the Regulated Funds was a business development company and each of the investments permitted under these conditions was approved by the Required Majority under Section 57(f).

[11] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

10. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of any of the Affiliated Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) will, to the extent not payable by the Adviser under its respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including, without limitation, break-up or commitment fees but excluding broker's fees contemplated by Section 17(e) of the Act) received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds (who may, in turn, share their portion with affiliated persons) on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in Section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Adviser, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of the Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund).

14. If the Holders own in the aggregate more than 25% of the Shares, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) all other matters under either the Act or applicable state law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4) of the Act, will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11728 Filed 6–6–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80841; File No. SR–BatsEDGX–2017–25]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add a New Optional Order Instruction Known as Non-Displayed Swap

June 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 26, 2017, Bats EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to: (i) Amend paragraph (n) of Exchange Rule 11.6, Routing/Posting Instructions to add a new optional order instruction to be known as Non-Displayed Swap; and (ii) make a related change to description of Limit Orders and MidPoint Peg Orders under Exchange Rule 11.8.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Amend paragraph (n) of Exchange Rule 11.6, Routing/Posting Instructions to add a new optional order instruction to be known as Non-Displayed Swap; and (ii) make a related change to description of Limit Orders and MidPoint Peg Orders under Exchange Rule 11.8. The proposed amendments are substantially similar to the rules of the Nasdaq Stock

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

Market LLC (''Nasdaq'') and NYSE Arca, Inc. (''Arca'').[5]

The proposed Non-Displayed Swap (''NDS'') instruction would provide orders with a Non-Displayed [6] instruction resting on the EDGX Book [7] with a greater ability to receive an execution when that resting order is locked by an incoming order (*e.g.,* the price of the resting non-displayed order is equal to the price of the incoming order that is to be placed on the EDGX Book). The NDS instruction would be an optional order instruction which would allow Users [8] to have their resting non-displayed orders execute against an incoming order with a Post Only instruction rather than have it be locked by the incoming order. NDS would be defined as an instruction that may be attached to an order with a Non-Displayed instruction that when such order is resting on the EDGX Book and would be locked by an incoming order with a Post Only instruction that does not remove liquidity pursuant to paragraph (4) of Exchange Rule 11.6(n),[9] the order with a NDS instruction is converted to an executable order and will remove liquidity against such incoming order. An order with a NDS instruction would not be eligible for routing pursuant to Exchange Rule 11.11, Routing to Away Trading Centers. The proposed NDS instruction assists in the avoidance of an internally locked EDGX Book (though such lock would not be displayed by the Exchange) [10] by facilitating the execution of orders that would otherwise lock each other.

The following example illustrates the operation of an order with a NDS instruction. Assume the National Best Bid and Offer is $10.00 by $10.04. There is a Limit Order to buy with a Non-Displayed instruction resting on the EDGX Book at $10.03. An order to sell with a Post Only instruction priced at $10.03 is entered. Under current behavior, the incoming sell order with a Post Only instruction would post to the EDGX Book because it would not receive sufficient price improvement.[11] This would result in the EDGX Book being internally locked.[12] As proposed, if the Limit Order to buy with Non-Displayed instruction also included a NDS instruction, the orders would instead execute against each other at $10.03, with the resting buy order with the NDS instruction becoming the remover of liquidity and the incoming sell order with a Post Only instruction becoming the liquidity provider.

Assume the same facts as above, but that a Limit Order with a Non-Displayed instruction to buy at $10.03 is also resting on the EDGX Book with time priority ahead of the Limit Order to buy with a Non-Displayed instruction mentioned above. Like above, an order to sell with a Post Only instruction priced at $10.03 is entered. Under current behavior, the incoming sell order with a Post Only instruction would post to the EDGX Book because the value of such execution against the resting buy order when removing liquidity does not equal or exceed the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. As proposed, if the Limit Order to buy with Non-Displayed instruction also included a NDS instruction, the incoming sell order would execute against the resting Limit Order with a NDS instruction at $10.03 with the resting buy order with the NDS instruction becoming the remover of liquidity and the incoming sell order with a Post Only instruction becoming the liquidity provider. In such case, the Limit Order with a Non-Displayed instruction to buy at $10.03 cedes time priority to the Limit Order with a Non-Displayed and NDS instruction because such order did not also include a NDS instruction [13] and thus the User that submitted the order did not indicate the preference to be treated as the remover of liquidity in favor of an execution; instead, by not using NDS, a User indicates the preference to remain posted on the EDGX Book as a liquidity provider.[14] However, if the incoming sell order was priced at $10.02, it would receive sufficient price improvement to execute upon entry against all resting buy Limit Orders in time priority at $10.03.[15]

If the order with a NDS instruction is only partially executed, the unexecuted portion of that order remains on the EDGX Book and maintains its priority, as is the case today for an order that is partially executed and not cancelled by the User.[16] The Exchange is proposing to make the NDS instruction available to Limit Orders [17] that include a Non-Displayed instruction and MidPoint Peg Orders.[18] The NDS instruction would not be available to all other order types provided by the Exchange under its Rule 11.8, as the execution of these order types is governed by other Exchange rules and the NDS instruction would be inconsistent with the use of those order types.

The Exchange notes that similar functionality exists on Nasdaq and Arca. Nasdaq refers to their functionality as the ''Trade Now'' instruction [19] and Arca refers to their functionality as the ''Non-Display Remove Modifier''.[20] On

[5] *See* Nasdaq Rule 4703(m) (defining the Trade Now order modifier). *See also* Securities Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (Notice of Filing and Immediate Effectiveness to add the Trade Now instruction to certain order types). *See* Arca Rule 7.31(d)(2)(B) (describing the Non-Display Remove Modifier). *See also* Securities Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015).

[6] *See* Exchange Rule 11.6(e)(2).

[7] *See* Exchange Rule 1.5(d).

[8] *See* Exchange Rule 1.5(ee).

[9] Under Exchange Rule 11.6(n)(4), an order with a Post Only instruction will remove contra-side liquidity from the EDGX Book if the order is an order to buy or sell a security priced below $1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, the Exchange will use the highest possible rebate paid and highest possible fee charged for such executions on the Exchange.

[10] *See* Exchange Rule 11.10(a)(4)(C).

[11] *Id.*

[12] In the event the incoming order with a Post Only instruction was to be displayed, it would post and display at $10.03 and the resting buy order with a Non-Displayed instruction would not execute against it or subsequent incoming sell orders at $10.03 for so long as the sell order was displayed on the Exchange. *See* Exchange Rule 11.10(a)(4)(C) and (D).

[13] This behavior is inherent in the operation of Nasdaq's Trade Now modifier and is identical to the interaction of ALO orders with orders that contain the Non-Display Remove Modifier on Arca. *See* Nasdaq Rule 4703(m) and Arca Rule 7.31(e)(2)(B)(iv)(b) (providing that unless a resting order is designated with a Non-Display Remove Modifier, an ALO Order will trade only with arriving interest).

[14] Should the Limit Order to buy at $10.03 with time priority be displayed on the EDGX Book, the incoming sell order at $10.03 with a Post Only instruction will not execute against the non-displayed buy order with a NDS instruction because displayed orders have priority over non-displayed orders. In such a case, the incoming Limit Order would be handled as it is today in accordance with existing Exchange rules. *See, e.g.,* Exchange Rules 11.6(l), 11.9, and 11.10(a).

[15] The execution occurs here because the value of the execution against the buy order when removing liquidity exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. *See supra* note 9.

[16] *See* Exchange Rule 11.9(a)(5).

[17] *See* Exchange Rule 11.8(b).

[18] *See* Exchange Rule 11.8(d).

[19] *See* Nasdaq Rule 4703(m). *See also* Securities and Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (SR–Nasdaq–2016–156) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4703 and Rule 4703 to add a ''Trade Now'' Instruction to Certain Order Types).

[20] *See* Arca Rule 7.31(d)(2)(B). *See also* Securities and Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR–NYSEArca–2015–56) (Order Approving Proposed Rule Change, and Notice of Filing and Order

Arca, a Limit Non-Displayed Order may be designated with a Non-Display Remove Modifier. If so designated, a Limit Non-Displayed Order to buy (sell) will trade as the remover of liquidity with an incoming Adding Liquidity Only Order (''ALO Order'') to sell (buy) that has a working price equal to the working price of the Limit Non-Displayed Order.[21] On Nasdaq, Trade Now is an order attribute that allows a resting order that becomes locked by an incoming Displayed Order to execute against the available size of the contra-side locking order as a liquidity taker, and any remaining shares of the resting order will remain posted on the Nasdaq Book with the same priority.[22] Nasdaq requires the contra-side order to be display eligible, while the Exchange proposes to enable an order with a NDS instruction to remove liquidity regardless of whether the incoming order would have ultimately been eligible for display consistent with Arca's Non-Display Remove Modifier.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[23] in general, and furthers the objectives of Section 6(b)(5) of the Act[24] in particular, in that it is designed 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 by offering Users optional functionality that will facilitate the execution of orders that would otherwise remain unexecuted, thereby increasing the efficient functioning of the Exchange. The NDS instruction is an optional feature that is intended to reflect the order management practices of various market participants. The proposed NDS instruction assists in the avoidance of an internally locked EDGX Book by facilitating the execution of orders that would otherwise post, or remain posted, to the EDGX Book.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the Exchange believes the proposed rule change promotes competition because it will enable the Exchange to offer functionality substantially similar to that offered by Nasdaq and Arca.[25] Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As the NDS feature will be equally available to all Users, the Exchange does not believe the proposed rule change will result in any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[26] and Rule 19b–4(f)(6) thereunder.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGX–2017–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2017–25. 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–

Granting Accelerated Approval of Amendment Nos. 1 and 2 Thereto, Adopting New Equity Trading Rules Relating to Orders and Modifiers and the Retail Liquidity Program To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform) (including the Non-Display Remove Modifier).

[21] *See* Arca Rule 7.31(d)(2)(b).

[22] Arca provides their Non-Display Remove Modifier to their Mid-Point Liquidity Orders (''MPL Orders'') designated Day and MPL–ALO Orders and Arca Only Orders. Nasdaq's Trade Now functionality is available to Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, Post-Only Orders, Midpoint Peg Post-Only Orders, and Market Maker Peg Orders. To the extent the NDS instruction is only available to Limit Orders with a Non-Displayed instruction and MidPoint Peg Orders, the Exchange notes that the NDS instruction will apply to different order types than Arca's Non-Display Remove Modifier and Nasdaq's Trade Now functionality.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *See supra* note 5.

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

BatsEDGX–2017–25, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11751 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80844; File No. SR–NYSE–2017–26]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Exchange's Retail Liquidity Program Until December 31, 2017

June 1, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 23, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on June 30, 2017, until December 31, 2017. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program, currently scheduled to expire on June 30, 2017,[4] until December 31, 2017.

Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.[5] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE Rule 107C(m), the pilot period for the Program is scheduled to end on June 30, 2017.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[6] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[7] Through this filing, the Exchange seeks to amend NYSE Rule 107C(m) and extend the current pilot period of the Program until December 31, 2017.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 79493 (December 7, 2016), 81 FR 90019 (December 13, 2016) (SR–NYSE–2016–82).

[5] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (''RLP Approval Order'') (SR–NYSE–2011–55).

[6] *See id.* at 40681.

[7] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Martha Redding, Asst. Corporate Secretary, NYSE Group, Inc. to Brent J. Fields, Secretary, Securities and Exchange Commission, dated May 23, 2017.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional six months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–26, and should be submitted on or before June 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11753 Filed 6–6–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 10025]

Notice of Issuance of a Presidential Permit to NuStar Logistics, L.P.

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs issued a Presidential permit to NuStar Logistics, L.P. (''NuStar'') on May 30, 2017, authorizing NuStar to operate and maintain existing pipeline facilities (''Existing Burgos pipeline facilities'') at the U.S.-Mexico border near Edinburg, Texas for the transport of refined petroleum products, including naphtha, liquefied petroleum gas, natural gas liquids, jet fuel, regular and premium gasoline, and diesel. In accordance with Executive Order 13337 (April 30, 2004), the Acting Assistant Secretary determined that issuance of this permit would serve the national interest.

FOR FURTHER INFORMATION CONTACT: Matthew T. McManus, Acting Director, Energy Resources Bureau, Office of Policy Analysis and Public Diplomacy, U.S. Department of State, 2201 C St. NW., Suite 4422, Washington, DC 20520.

SUPPLEMENTARY INFORMATION: Additional information concerning the Existing Burgos pipeline facilities and documents related to the Department of State's review of the application for a Presidential permit can be found at *https://www.state.gov/e/enr/applicant/applicants/c66757.htm.* Following is the text of the permit, as issued:

PRESIDENTIAL PERMIT

AUTHORIZING NUSTAR LOGISTICS, L.P. TO OPERATE AND MAINTAIN EXISTING PIPELINE FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND MEXICO

By virtue of the authority vested in me as Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, including those authorities under

Executive Order 13337, 69 FR 25299 (2004), and Department of State Delegation of Authority 118–2 of January 26, 2006 and Delegation 415 of January 18, 2017; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 *et seq.*), Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and other statutes relating to environmental concerns; and having requested and received the views of members of the public, various federal and state agencies, and various Indian tribes; I hereby grant permission, subject to the conditions herein set forth, to NuStar Logistics, L.P., formerly known as Valero Logistics Operations, L.P. (hereinafter referred to as the ''permittee''), a limited partnership formed under the laws of the state of Delaware, with its principal place of business in San Antonio, Texas, to operate and maintain existing pipeline facilities at the border of the United States and Mexico for the transport of refined petroleum products, including naphtha, liquefied petroleum gas, natural gas liquids, jet fuel, gasoline, and diesel between the United States and Mexico. The term ''facilities'' as used in this permit means the relevant portion of the pipeline and any land, structures, installations, or equipment appurtenant thereto.

The term ''United States facilities'' as used in this permit means those parts of the facilities located in the United States. The United States facilities consist of an 8-inch diameter pipeline in existence at the time of this permit's issuance extending from the international border between the United States and Mexico underneath the Rio Grande at a point southeast of Peñitas, Texas to the first mainline shutoff valve in the United States located approximately 1.6 miles from the Rio Grande. The United States facilities also include certain appurtenant facilities.

This permit is subject to the following conditions:

Article 1. (1) The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any amendment thereof. This permit may be terminated or amended at any time at the discretion of the Secretary of State or the Secretary's delegate or upon proper application therefor. The permittee shall make no substantial change in the United States facilities, the location of the United States facilities, or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

(2) The operation and maintenance of the United States facilities shall be in all material respects as described in the permittee's December 18, 2014 application for a Presidential permit and consistent with the resource protection measures identified in the Final Environmental Assessment (EA) dated June 16, 2016.

Article 2. The standards for, and the manner of, the operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal, state and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, local, and tribal laws and regulations regarding the operation and maintenance of the United States facilities and with all applicable industrial codes. The permittee shall obtain requisite permits from relevant state and local governmental entities, and relevant federal agencies.

Article 4. All operation and maintenance of the United States facilities under this permit shall be subject to the limitations, terms, and conditions issued by any competent agency of the U.S. government. The permittee shall continue the operations hereby authorized and conduct maintenance in accordance with such limitations, terms, and conditions. Such limitations, terms, and conditions could address, for example, environmental protection and mitigation measures, safety requirements, export or import and customs regulations, measurement capabilities and procedures, requirements pertaining to the pipeline's capacity, and other pipeline regulations. This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 5. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to, this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession, removal, or other action.

Article 6. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 7. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the Department of State, including the submission of information identifying the transferee. This permit shall remain in force subject to all the conditions, permissions, and requirements of this permit and any amendments thereto unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 8. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary and appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the facilities, including but not limited to environmental contamination from the release or threatened release or discharge of hazardous substances and hazardous waste.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

Article 9. The permittee shall take all necessary measures to prevent or

mitigate adverse impacts on or disruption of the human environment in connection with the operation and maintenance of the United States facilities. Such measures will include the resource protection measures identified in the Final EA and any that are approved in the future by the Department of State or other relevant federal or state agencies, as well as any other measures deemed prudent by the permittee.

Article 10. The permittee shall file with the appropriate agencies of the U.S. government such statements or reports under oath with respect to the United States facilities, and/or permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any laws or regulations of the U.S. government or its agencies. The permittee shall file electronic Export Information where required.

Article 11. The permittee shall provide information upon request to the Department of State with regard to the United States facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the U.S. facilities.

In witness whereof, I, Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, have hereunto set my hand this Thirtieth day of May 2017 in the City of Washington, District of Columbia.

Judith G. Garber,
Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

End of permit text.

Matthew T. McManus,

Acting Director, Energy Resource Bureau, Office of Policy Analysis And Public Diplomacy, Department of State.

[FR Doc. 2017–11812 Filed 6–6–17; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 10022]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Great British Drawings From the Ashmolean Museum'' Exhibition

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that certain objects to be included in the exhibition ''Great British Drawings from the Ashmolean Museum,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Princeton University Art Museum, Princeton, New Jersey, from on or about July 1, 2017, until on or about September 17, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–11644 Filed 6–6–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10016]

Diplomatic Security Request for Higher Maximum Uniform Allotment

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: This is a notice that the Department of State (DOS) is establishing a higher initial maximum uniform allowance to procure and issue uniform items for special agent personnel within the Office of Mobile Security Deployments (DS/T/MSD). This action is pursuant to the authority granted to the DOS by 5 CFR 591.104, which states that an agency may establish one or more initial maximum uniform allowance rates greater than the government-wide maximum uniform allowance rate established under 5 CFR 591.103.

DATES: June 7, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Evans, Management Program Analyst, DS/T/MSD, Ph.—703–618–7903.

SUPPLEMENTARY INFORMATION: The DOS is implementing a higher initial maximum uniform allowance to procure and issue uniform items for special agent personnel within the DS/T/MSD. This is being established in accordance with 5 CFR 591.104, which states that an agency may establish one or more initial maximum uniform allowance rates greater than the government-wide maximum uniform allowance rate established under 5 CFR 591.103. The current $800.00 limit has become inadequate to maintain the uniform standards and professional image expected of Diplomatic Service special agents whom serve within DS/T/MSD. The uniform items for DS/T/MSD special agent personnel include the following items or similar items such as: Battle dress uniform pants, hot weather top and blouses; heavy duty battle dress uniform; cloth uniform insignia patches, and cloth uniform badges. The average total uniform cost for the listed items is $1,400.00. Based on these current costs, the DOS is increasing the initial maximum uniform allowance for DOS special agents in DS/T/MSD to $1,400.00. The number of DOS special agents in DS/T/MSD affected by this change would be approximately 125 employees.

Stephen B. Dietz, III,

Executive Director, Bureau of Diplomatic Security, Department of State.

[FR Doc. 2017–11729 Filed 6–6–17; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice 10021]

Notice of Public Meeting

The Department of State will conduct an open meeting at 9:00 a.m. on Wednesday, July 12, 2017, in Room 5L18–01 of the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593. The primary purpose of the meeting is to prepare for the sixty-seventh session of the International Maritime Organization's (IMO) Technical Cooperation Committee (TCC 67) to be held at the IMO Headquarters, United Kingdom, 17–19 July, 2017 and the one hundred and eighteenth session of the

IMO Council (C 118) to be held at the IMO Headquarters, United Kingdom, 24–28 July, 2017.

The agenda items to be considered include:

Sixty–Seventh Session of the Technical Co-Operation Committee

—Adoption of the agenda
—Work of other bodies and organizations
—Integrated Technical Cooperation Programme (Annual report for 2016 & Programme for 2018 and 2019)
—Financing of the Integrated Technical Cooperation Programme (Technical Cooperation Fund Allocation for 2018 and 2019, Review and revision of the 2007 Strategy on the long-term financing of the Integrated Technical Cooperation Programme, and Sustainable financing)
—The 2030 Agenda for Sustainable Development (Maritime transport policy development, Country Maritime Profiles, Related developments within the United Nations system, Linkage with IMO's technical assistance work, and Revision of the Assembly resolutions relating to technical cooperation)
—Partnerships (Regional presence and coordination and Partnership arrangements)
—Voluntary IMO Member State Audit Scheme and IMO Member States Audit Scheme (Analysis of the consolidated audit summary reports of the Voluntary IMO Member State Audit Scheme and Developments with respect to IMO Member States Audit Scheme)
—Capacity Building: Strengthening the impact of women in the maritime sector
—Global maritime training institutions (World Maritime University, IMO International Maritime Law Institute, and Other established arrangements)
—Impact Assessment Exercise (Follow-up to the exercise for the period 2012–2015 and Matters relating to future exercises)
—Development of a new Strategic Framework for the Organization for 2018–2023
—Application of the Committee's guidelines
—Work programme
—Election of Chairman and Vice-Chairman for 2018
—Amendment of the Rules of Procedure of the Committee
—Any other business
—Consideration of the report of the Committee on its sixty-seventh session

One Hundred and Eighteenth Session of Council

—Adoption of the agenda
—Report of the Secretary-General on credentials
—Strategy, planning and reform
—Resource management (Human resource matters, accounts and audits for 2016 budget year, Report on investments, Report on arrears of contributions and advances to the Working Capital Fund, Budget considerations for 2017)
—Results-based budget for 2018–2019
—IMO Member State Audit Scheme
—Consideration of the report of the Facilitation Committee
—Consideration of the report of the Legal Committee
—Consideration of the reports of the Maritime Safety Committee
—Consideration of the report of the Technical Cooperation Committee
—Technical Cooperation Fund (Report on activities of the 2016 programmes & Preliminary biennial allocation to support the ITCP for 2018–2019)
—World Maritime University (Report of the Board of Governors, Budget, Proposed Charter amendments)
—IMO International Maritime Law Institute (Report of the Board of Governors, Budget and Proposed amendments to the Charter of the World Maritime University)
—Protection of vital shipping lanes
—Principles to be considered in the review of existing requirements and the development of new requirements
—Assembly matters (Provisional agenda, Preparations for Assembly, and Draft report of the Council to the Assembly)
—External relations (With the U.N. and the specialized agencies, Joint Inspection Unit, Relations with intergovernmental organizations, Relations with non-governmental organizations, World Maritime Day, International Maritime Prize, IMO Award for Exceptional Bravery at Sea, Report of the Day of the Seafarer, and IMO Maritime Ambassador Scheme)
—Report on the status of the convention and membership of the Organization
—Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions
—Place, date and duration of the next two sessions of the Council and substantive items for inclusion in the provisional agendas for the next two sessions of Council (C/ES.29 and C 119)
—Supplementary agenda items, if any

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LCDR Staci Weist, by email at *Eustacia.Y.Weist@uscg.mil,* by phone at (202) 372–1376, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington DC 20593–7509 not later than July 5, 2017. Requests made after July 5, 2017 might not be able to be accommodated.

Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters building. It is recommended that attendees arrive to Coast Guard Headquarters no later than 30 minutes ahead of the scheduled meeting for the security screening process. Coast Guard Headquarters is accessible by taxi and public transportation. Parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo.*

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2017–11811 Filed 6–6–17; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Cambridge, Medford, and Somerville, Massachusetts; King County, Washington; and Elgin, Illinois. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Alan Tabachnick, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–8541. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Green Line Extension Project, Cambridge, Medford, and Somerville, Massachusetts. *Project sponsor:* Massachusetts Department of Transportation (MassDOT) and Massachusetts Bay Transportation Authority (MBTA). *Project description:* The project would use a two-branch operation to extend light rail service to College Avenue in Medford and to Union Square in Somerville from the re-located Lechmere Station. The project would also include a maintenance facility and the Somerville Community Path. A re-evaluation was issued because of the following modifications: A re-design of stations from enclosed stations to open air platforms, a smaller maintenance facility, reduced reconstruction of some bridges, an alternative Lechmere Viaduct structure, a modification to retaining walls, a substitution of noise mitigation from noise walls to sound proofing, and a redesign of the Somerville Community Path. *Final agency actions:* FTA determination that neither a Supplemental Environmental Impact Statement nor a Supplemental Environmental Assessment is necessary. *Supporting documentation:* Letter by MBTA, dated March 28, 2017, and the Certificate of the Commonwealth of Massachusetts Secretary of Energy and Environmental Affairs on the Notice of Project Change, dated March 10, 2017.

2. *Project name and location:* East Link Extension Light Rail Project, King County, WA. *Project sponsor:* Central Puget Sound Regional Transit Authority (Sound Transit). *Project description:* The project would extend the current light rail system an additional 18 miles from Downtown Seattle to Mercer Island and Bellevue along Interstate 90 (I–90) and then through Bellevue to Overlake and Redmond. The project would include 12 stations, four park-and-ride lots, and supporting facilities. A re-evaluation was issued to assess operational changes to the I–90 high-occupancy vehicle (HOV) lanes between Seattle and Mercer Island and project refinements associated with integrating transit on Mercer Island. These changes altered mitigation measures in five locations, including installing traffic signals, adjusting signal timing, and minor widening and restriping at certain intersections and I–90 ramps. *Final agency actions:* FTA determination that neither a Supplemental Environmental Impact Statement nor a Supplemental Environmental Assessment is necessary. *Supporting documentation:* State Environmental Policy Act Addendum to the Final Environmental Impact Statement, dated April 2017.

3. *Project name and location:* Milwaukee West Line Fox River Bridge Improvement Project, Elgin, IL. *Project sponsor:* Metra. *Project description:* The project would create a new Fox River railroad bridge for Metra's Milwaukee West Line. A new single-track bridge would be constructed immediately west of the existing, deteriorating bridge. Once the existing bridge is removed, the project would construct three piers extending east from the new bridge to support a second track. The project would also replace signal components near the bridge, install a new interlocking, and add underground cable for the signal system. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no historic properties affected; project-level air quality conformity; and a Finding of No Significant Impact, dated May 19, 2017. *Supporting documentation:* Environmental Assessment, dated February 2017.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2017–11830 Filed 6–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number: DOT–OST–2014–0031]

Agency Information Collection; Activity Under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 22, 2017.

Airports Council International—North America strongly supports the Department of Transportation continuing to require U.S. and foreign air carriers to file traffic and capacity data. Alaska Airlines also supports BTS's continued collection and publication of T–100 and T–100(f) data.

DATES: Written comments should be submitted by July 7, 2017.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: OST Desk Officer.

FOR FURTHER INFORMATION CONTACT: Jennifer Rodes, Office of Airline Information, RTS–42, Room E34–420, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or EMAIL *Jennifer.rodes@dot.gov.*

SUPPLEMENTAL INFORMATION:

OMB Approval No. 2138–0040.

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedules T–100 and T–100(f).

Type of Review: Extension of a currently approved collection.

Respondents: Certificated, commuter and foreign air carriers that operate to, from or within the United States.

T100 Form:

Number of Respondents: 119.

Number of Annual responses 1,428.

Total Burden per Response: 6 hours.
Total Annual Burden: 8,568 hours.
T100F Form:
Number of Respondents: 190.
Number of Annual responses 2,280.
Total Burden per Response: 2 hours.
Total Annual Burden: 4,560 hours.
Needs and Uses:

Airport Improvement

The Federal Aviation Administration uses enplanement data for U.S. airports to distribute the annual Airport Improvement Program (AIP) entitlement funds to eligible primary airports, *i.e.,* airports which account for more than 0.01 percent of the total passengers enplaned at U.S. airports. Enplanement data contained in Schedule T–100/T–100(f) are the sole data base used by the FAA in determining airport funding. U.S. airports receiving significant service from foreign air carriers operating small aircraft could be receiving less than their fair share of AIP entitlement funds. Collecting Schedule T–100(f) data for small aircraft operations will enable the FAA to more fairly distribute these funds.

Air Carrier Safety

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies. The FAA monitors changes in the number of air carrier operations as a way to allocate inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the FAA to develop airport profiles and establish priorities for airport inspections.

Acquisitions and Mergers

While the Justice Department has the primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved to determine if they would substantially reduce competition, or determine if the transaction would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger. The Justice Department uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Traffic Forecasting

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts. These forecast as used by the FAA, airport managers, the airlines and others in the air travel industry as planning and budgeting tools.

Airport Capacity Analysis

The mix of aircraft type are used in determining the practical annual capacity (PANCAP) at airports as prescribed in the FAA Advisory Circular *Airport Capacity Criteria Used in Preparing the National Airport Plan.* The PANCAP is a safety-related measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansions or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, the FAA develops ways of increasing airport capacity at congested airports.

Airline Industry Status Evaluations

The Department apprises Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely and inclusive to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Mail Rates

The Department is responsible for establishing intra-Alaska mail rates. Separate rates are set for mainline and bush Alaskan operations. The rates are updated every six months to reflect changes in unit costs in each rate-making entity. Traffic and capacity data are used in conjunction with cost data to develop the required unit cost data.

Essential Air Service

The Department reassesses service levels at small domestic communities to assure that capacity levels are adequate to accommodate current demand.

System Planning at Airports

The FAA is charged with administering a series of grants that are designed to accomplish the necessary airport planning for future development and growth. These grants are made to state metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data, and service segment data are used to prepare airport activity level forecasts.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements that relate to fares, rates, and rules for international air transportation to ensure that the agreements meet the public interest criteria. Current and historic summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by aircraft type, type of service, and length of haul are needed to conduct these analyses to: (1) Develop the volume elements for passenger/cargo cost allocations, (2) evaluate fluctuations in volume of scheduled and charter services, (3) assess the competitive impact of different operations such as charter versus scheduled, (4) calculate load factors by aircraft type, and (5) monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit applications for authority to operate to the United States. In reviewing these applications the Department must find that the requested authority is encompassed in a bilateral agreement, other intergovernmental understanding, or that granting the application is in the public interest. In the latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their U.S. operations. These benefits are compared and balanced against the benefits U.S. carriers receive from their operations to the applicant's homeland.

Air Carrier Fitness

The Department determines whether U.S. air carriers are and continue to be fit, willing and able to conduct air service operations without undue risk to passengers and shippers.

The Department monitors a carrier's load factor, operational, and enplanement data to compare with other carriers with similar operating

characteristics. Carriers that expand operations at a high rate are monitored more closely for safety reasons.

International Civil Aviation Organization

Pursuant to an international agreement, the United States is obligated to report certain air carrier data to the International Civil Aviation Organization (ICAO). The traffic data supplied to ICAO are extracted from the U.S. air carriers' Schedule T–100 submissions.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on May 31, 2017.

William Chadwick, Jr.,

Director, Office of Airline Information.

[FR Doc. 2017–11789 Filed 6–6–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Information Collection Renewal; Comment Request; Basel II Interagency Supervisory Guidance for the Supervisory Review Process (Pillar 2)

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled ''Basel II Interagency Supervisory Guidance for the Supervisory Review Process (Pillar 2).''

DATES: Comments must be received by August 7, 2017.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0242, 400 7th Street SW., Suite 3E–218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title of Information Collection: Basel II Interagency Supervisory Guidance for the Supervisory Review Process (Pillar 2).

OMB Control No.: 1557–0242.

Frequency of Response: Event-generated.

Affected Public: National banks.

Abstract: In 2008, the agencies [1] issued a supervisory guidance document for implementing the supervisory review process (Pillar 2).[2] Sections 37, 41, 43, and 46 of the guidance contain information collections. Section 37 provides that banks should state clearly the definition of capital used in any aspect of its internal capital adequacy assessment process (ICAAP) and document any changes in the internal definition of capital. Section 41 provides that banks should maintain thorough documentation of ICAAP. Section 43 specifies that the board of director should approve the bank's ICAAP, review it on a regular basis, and approve any changes. Boards of directors, under section 46, should periodically review the assessment of overall capital adequacy and to analyze how measures of internal capital adequacy compare with other capital measures (such as regulatory or accounting).

Estimated Burden:

Number of Respondents: 23.

Estimated Burden per Respondent: 140 hours.

Total Estimated Annual Burden: 3,220 hours.

Comments: Comments submitted in response to this notice will be summarized and 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 OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's burden estimates, including the validity of the methodology and assumptions used;

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

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

[1] OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation.

[2] 73 FR 44620 (July 31, 2008).

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 1, 2017.

Karen O. Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017–11740 Filed 6–6–17; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices, Department of the Treasury.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for extension approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning extension without change of the following three related forms: Foreign Currency Form FC–1 (OMB No. 1505–0012), Weekly Consolidated Foreign Currency Report of Major Market Participants; Form FC–2 (OMB No. 1505–0010); Monthly Consolidated Foreign Currency Report of Major Market Participants; Form FC–3 (OMB No. 1505–0014), Quarterly Consolidated Foreign Currency Report. The reports are mandatory.

DATES: Written comments should be received on or before August 7, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Emily Weis, Markets Room, Department of the Treasury, Room 1328, 1500 Pennsylvania Avenue NW., Washington DC 20220.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Federal Reserve Bank of New York's Web site, in the section for Banking Reporting Forms and Instructions, on the Web pages for the TFC–1, TFC–2 and TFC–3 forms, for example at: *https://www.newyorkfed.org/banking/reportingforms/TFC_1.html; https://www.newyorkfed.org/banking/reportingforms/TFC_2.html;* and *https://www.newyorkfed.org/banking/reportingforms/TFC_3.html.* In view of possible delays in mail delivery, please also notify Ms. Weis by email (*emily.weis@treasury.gov*), FAX (202–622–2021) or telephone (202–622–5513). Requests for additional information should be directed to Ms. Weis.

SUPPLEMENTARY INFORMATION:

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–1.

OMB Control Number: 1505–0012.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–2.

OMB Control Number: 1505–0010.

Title: Quarterly Consolidated Foreign Currency Report, Foreign Currency Form FC–3.

OMB Control Number: 1505–0014.

Abstract: The filing of Foreign Currency Forms FC–1, FC–2, and FC–3 is pursuant to (31 U.S.C. 5315, which directs the Secretary of the Treasury to prescribe regulations (31 CFR 128, Subpart C), requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The forms collect data on the foreign exchange spot, forward, futures, and options markets from all significant market participants.

Current Actions: No changes in the forms will be made. Two changes have been made in the instructions to provide additional clarity on who must file the reports. The changes will impact the instructions for all three of the forms. Specifically, (1) In section B, Who Must Report, the last sentence of the first paragraph now reads: ''The calculation of exposure against the Form FC–1 [FC–2, FC–3] reporting threshold should include foreign exchange contracts in all currencies and should not be limited to contracts in the indicated currencies on the Form FC–1 [FC–2, FC–3].'' (2) In section C, Filing the Reports, the last sentence of paragraph C.1 now reads: ''The reporter is required to file the Form FC–1 [FC–2, FC–3] until the reporter's contracts have remained below the reporting threshold for all four quarters of a calendar year.''

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents:

Foreign Currency Form FC–1: 30 respondents.

Foreign Currency Form FC–2: 30 respondents.

Foreign Currency Form FC–3: 53 respondents.

Estimated Average Time per Response:

Foreign Currency Form FC–1: 48 minutes (0.8 hours) per response.

Foreign Currency Form FC–2: Three hours 36 minutes (3.6 hours) per response.

Foreign Currency Form FC–3: Eight (8) hours per response.

Estimated Total Annual Burden Hours:

Foreign Currency Form FC–1: 1,248 hours, based on 52 reporting periods per year.

Foreign Currency Form FC–2: 1,296 hours, based on 12 reporting periods per year.

Foreign Currency Form FC–3: 1,696 hours, based on 4 reporting periods per year.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Foreign Currency Forms FC–1, FC–2, and FC–3 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimates of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Emily Weis,

Financial Analyst, Markets Room, U.S. Department of the Treasury.

[FR Doc. 2017–11777 Filed 6–6–17; 8:45 am]

BILLING CODE 4810–25–P

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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