



FEDERAL REGISTER

Vol. 82

Tuesday,

No. 223

November 21, 2017

Pages 55305–55492

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Doc. No. AMS–SC–17–0063; SC17–905–1 IR]

Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida and Imported Grapefruit; Change in Size Requirements for Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a recommendation from the Citrus Administrative Committee (Committee) to relax the minimum size requirements currently prescribed for grapefruit under the marketing order for oranges, grapefruit, tangerines, and pummelos grown in Florida (Order). The Committee locally administers the Order and is comprised of producers and handlers operating within the production area and one public member. This rule relaxes the minimum size requirement for grapefruit from $3\frac{5}{16}$ inches in diameter to 3 inches in diameter. This rule will maximize shipments by allowing more grapefruit to be shipped to the fresh market and will help reduce the losses sustained by the grapefruit industry during the September 2017 hurricane in Florida. The corresponding change in the grapefruit import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Effective November 24, 2017; comments received by January 22, 2018 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA,

1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: <http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Abigail Campos, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: Abigail.Campos@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905, as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and pummelos grown in Florida, hereinafter referred to as the “Order.” The Order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule relaxes the minimum size requirements for grapefruit prescribed under the Order. This rule relaxes the minimum size requirement for grapefruit from $3\frac{5}{16}$ inches in diameter to 3 inches in diameter. This rule will maximize shipments by allowing more grapefruit to be shipped to the fresh market and will help reduce the losses sustained by the grapefruit industry during the September 2017 hurricane in Florida. This change was unanimously recommended by the Committee at

meetings on June 29, 2017, and September 28, 2017.

Section 905.52 of the Order provides authority to establish minimum size requirements for Florida citrus. Section 905.306 of the rules and regulations issued under the Order specifies, in part, the minimum size requirements for grapefruit. Requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a) and for export shipments in Table II of paragraph (b). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106.

At its June 29, 2017, meeting, the Committee discussed the continuing decline in production as a result of losses from citrus greening, which is affecting the entire production area. The Committee also recognized that some consumers are now showing a preference for smaller-sized fruit. The Committee agreed the current minimum size should be relaxed in order to make additional fruit available for shipment.

The Committee met again on September 28, 2017, to discuss the additional damage Hurricane Irma caused to the current crop and revisited the discussion regarding the need to reduce the minimum size requirements. The major grapefruit-growing regions in Florida suffered significant damage and fruit loss from the hurricane. The strong winds from the storm blew substantial volumes of fruit off the trees. The impact of the storm is also expected to produce a much higher than normal fruit drop. The extent of the loss is evident in the official USDA crop estimate for this season, which reflects a 37 percent decrease from last year's estimate. Given the limited supply of fruit due to citrus greening and the impact of Hurricane Irma, the Committee believes relaxing the size requirements for grapefruit is needed to make more fruit available for shipment.

The Committee also considered a reduction in the soluble solids and the solids-to-acid minimum ratio as outlined in the minimum maturity requirements. However, members were concerned that reducing maturity requirements would impact the quality of the fruit. Consequently, the Committee did not recommend making any changes to the minimum maturity requirements at this time.

Committee members recognized that with the special circumstances surrounding this season and with the ongoing impacts of citrus greening, some allowances should be made to assist growers and handlers and provide additional volume to the market. The Committee believes relaxing the size

requirements will make more fruit available to meet market demand, help maximize fresh shipments, increase returns to growers and handlers, and help address the losses stemming from the hurricane. Consequently, the Committee recommended changing the minimum size requirement for grapefruit from $3\frac{5}{16}$ inches in diameter to 3 inches in diameter.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule changes the minimum size requirement under the domestic handling regulations for grapefruit, a corresponding change to the import regulations is required.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 of the Fruit Import Regulations. Section 944.106(h) specifies that grapefruit imported into the United States are in most direct competition with grapefruit produced in the area covered by Marketing Order No. 905. This change relaxes the minimum size requirements for imported grapefruit from $3\frac{5}{16}$ inches in diameter to 3 inches in diameter. The relaxation of minimum size requirements also has a beneficial impact on importers of grapefruit. This change allows a smaller-sized grapefruit to be shipped to the United States, thereby increasing the amount of fruit available for shipment to the fresh market, thus benefiting importers.

The Committee also recommended a relaxation in the minimum size requirements for oranges covered under the Order. That change is being considered under a separate action.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 20 handlers of Florida citrus who are subject to regulation under the Order and approximately 500 citrus producers in the regulated area. There are approximately 50 citrus importers. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

According to data from the National Agricultural Statistics Service (NASS), the industry, and the Committee, the average f.o.b. price for Florida grapefruit during the 2016–17 season was \$29.40 per box, and total fresh grapefruit shipments were approximately 3.2 million boxes. Using the average f.o.b. price and shipment data, the majority of Florida grapefruit handlers could be considered small businesses under SBA's definition (\$29.40 times 3.2 million boxes equals \$94.1 million divided by 20 handlers equals \$4.7 million per handler). In addition, based on NASS data, the average grower price for the 2016–17 season was \$16.02 per box. Based on grower price, shipment data, and the total number of Florida citrus growers, the average annual grower revenue is below \$750,000 (\$16.02 times 3.2 million boxes equals \$51,264,000 divided by 500 producers equals \$102,528 per handler). Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported fresh grapefruit was approximately \$11.2 million in 2016. Using this value and the number of importers (approximately 50), most importers would have annual receipts of less than \$7,500,000 for grapefruit. Thus, the majority of handlers, producers, and importers of grapefruit may be classified as small entities.

South Africa, Peru, and Mexico are the major grapefruit-producing countries exporting grapefruit to the United States. In 2016, shipments of grapefruit imported into the United States totaled approximately 24,000 metric tons.

This rule relaxes the minimum size requirements for grapefruit covered under the order from a $3\frac{5}{16}$ inches in diameter to 3 inches in diameter and makes a corresponding change to the grapefruit import regulation. This change is expected to maximize shipments by allowing more grapefruit to be shipped to the fresh market and will help reduce the losses sustained by the grapefruit industry as a result of citrus greening and the September 2017 hurricane in Florida. Authority for this

change is provided in § 905.52. This rule revises §§ 905.306 and 944.106. The Committee unanimously recommended this change at its June 29, 2017, and September 28, 2017, meetings. The change in the import regulation is required under section 8e of the Act.

This action is not expected to increase the costs associated with the Order's requirements or the grapefruit import regulation. Rather, it is anticipated that this action will have a beneficial impact. Reducing the size requirements will make additional fruit available for shipment to the fresh market, provide an outlet for fruit that may otherwise go unharvested, and afford more opportunity to meet consumer demand. This change will provide additional fruit to fill the shortage caused by citrus greening and by Hurricane Irma. Further, by maximizing shipments, this action will help provide additional returns to growers and handlers as they work to recover from the losses stemming from the hurricane.

This action may also help reduce harvesting costs. By reducing the minimum size, more fruit will be able to be harvested immediately. This may eliminate the need to leave fruit on the tree to increase in size, which requires follow-up picking later in the season. Given the amount of fruit loss, this could help reduce picking costs substantially. The benefits of this rule are expected to be equally available to all fresh grapefruit growers, handlers, and importers, regardless of their size.

An alternative to this action would be to maintain the current minimum size requirements for domestic shipments of grapefruit. However, leaving the requirements unchanged would not make additional fruit available for shipment. Following the significant damage experienced by the industry from the September 2017 hurricane, maximizing shipments will help provide additional returns to growers and handlers as they recover from the loss. Another alternative considered was to reduce the minimum maturity requirements. However, Committee members thought it was important to maintain the maturity requirements to ensure overall quality. Therefore, these alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meetings were widely publicized throughout the citrus industry, and all interested persons were invited to attend the meetings and participate in Committee deliberations. Like all Committee meetings, the June 29, 2017, and September 28, 2017, meetings were public meetings, and all entities, both large and small, were able to express their views on this issue. Further, information will be provided to importers regarding this change. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a change to the size requirements for grapefruit currently prescribed under the Marketing Order for oranges, grapefruit, tangerines, and pummelos grown in Florida and the grapefruit import regulation. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. The Florida citrus industry has been dealing with the devastating effects of citrus greening for more than 10 years, resulting in ever smaller harvests and escalating production costs. The September 2017 hurricane caused significant additional damage and crop loss to the industry, with losses estimated at more than \$700 million. This rule, in conjunction with a companion rule for oranges, will bring some much-needed relief by providing additional fruit for shipment to the fresh market and to increase returns to growers and handlers. Based on the size frequency measurements provided by NASS as part of grapefruit and orange crop estimates, the recommended relaxation in size for both grapefruit and oranges could make an additional 20 to 25 percent of the crop available for shipment to the fresh market. Based on estimates, this could mean an additional volume of about 700,000 boxes of citrus available for shipment. Using an average fresh price per box of around \$30, this could provide the industry with an additional \$20 million in returns for the 2017-18 season. This rule relieves a restriction on the size of domestic and imported grapefruit that can be shipped to the fresh market. Therefore good cause exists for this rule becoming effective three days after publication in the **Federal Register**. In addition, the Committee unanimously recommended these changes at public meetings, and interested parties had an opportunity to provide input. Further, this rule provides a 60-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 905 and 944 are amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND PUMMELOS GROWN IN FLORIDA

■ 1. The authority citation for part 905 continues to read as follows:

Authority: 7 U.S.C. 601–604.
 ■ 2. In § 905.306, Table I in paragraph (a) and Table II in paragraph (b) are amended by revising the entries for “Seedless, red” and “Seedless, except

red” under “Grapefruit” to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* * *	* * *	* * *	* * *
Grapefruit			
Seedless, red	On and after 11/13/00	U.S. No. 1	3
Seedless, except red	On and after 9/01/94	U.S. No. 1	3
* * *	* * *	* * *	* * *

(b) * * *

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* * *	* * *	* * *	* * *
Grapefruit			
Seedless, except red	On and after 9/01/94	U.S. No. 1	3
Seedless, red	On and after 9/01/94	U.S. No. 1	3
* * *	* * *	* * *	* * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. The authority citation for part 944 continues to read as follows:

Authority: 7 U.S.C. 601–604.
 ■ 4. In § 944.106, the table in paragraph (a) is revised to read as follows:

§ 944.106 Grapefruit import regulation.

(a) * * *

Grapefruit classification (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Seedless, red	On and after 11/13/00	U.S. No. 1	3
Seedless, except red	On and after 9/01/94	U.S. No. 1	3

* * * * *

Dated: November 16, 2017.

Bruce Summers,*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2017-25209 Filed 11-20-17; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 3**

[Docket ID OCC-2017-0012]

RIN 1557-AE 23

FEDERAL RESERVE SYSTEM**12 CFR Part 217**

[Regulation Q; Docket No. R-1571]

RIN 7100-AE 83

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 324**

RIN 3064-AE 63

Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to the Advanced Approaches Capital Rules

AGENCIES: Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to extend the regulatory capital treatment applicable during 2017 under the regulatory capital rules (capital rules) for certain items. These items include regulatory capital deductions, risk weights, and certain minority interest limitations. The relief provided under the final rule applies to banking organizations that are not subject to the capital rules' advanced approaches (non-advanced approaches banking organizations). Specifically, for these banking organizations, the final rule extends the current regulatory capital treatment of mortgage servicing assets, deferred tax assets arising from temporary differences that could not be realized through net operating loss

carrybacks, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. Under the final rule, advanced approaches banking organizations continue to be subject to the transition provisions established by the capital rules for the above capital items. Therefore, for advanced approaches banking organizations, their transition schedule is unchanged, and advanced approaches banking organizations are required to apply the capital rules' fully phased-in treatment for these capital items beginning January 1, 2018.

DATES: This rule is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT:

OCC: Mark Ginsberg, Senior Risk Expert (202) 649-6983; or Benjamin Pegg, Risk Expert (202) 649-7146, Capital and Regulatory Policy; or Carl Kaminski, Special Counsel, or Rima Kundnani, Attorney, Legislative and Regulatory Activities Division, (202) 649-5490, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Constance M. Horsley, Deputy Associate Director, (202) 452-5239; Juan Climent, Manager, (202) 872-7526; Elizabeth MacDonald, Manager, (202) 475-6316; Andrew Willis, Supervisory Financial Analyst, (202) 912-4323; Sean Healey, Supervisory Financial Analyst, (202) 912-4611 or Matthew McQueeney, Senior Financial Analyst, (202) 452-2942, Division of Supervision and Regulation; or Benjamin W. McDonough, Assistant General Counsel, (202) 452-2036; David W. Alexander, Counsel (202) 452-2877, or Mark Buresh, Senior Attorney (202) 452-5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

FDIC: Benedetto Bosco, Chief, Capital Policy Section, *bbosco@fdic.gov*; Michael Maloney, Capital Markets Senior Policy Analyst, *mmaloney@fdic.gov*, Capital Markets Branch, Division of Risk Management

Supervision, (202) 898-6888, *regulatorycapital@fdic.gov*; or Michael Phillips, Counsel, *mphillips@fdic.gov*; Catherine Wood, Counsel, *cawood@fdic.gov*; Rachel Ackermann, Counsel, *rackmann@fdic.gov*; Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:**I. Background**

In 2013, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) adopted rules that strengthened the capital requirements applicable to banking organizations supervised by the agencies (capital rules).¹ The capital rules limit the amount of capital that is eligible for inclusion in regulatory capital in cases where the capital is issued by a consolidated subsidiary of a banking organization and not owned by the parent banking organization (minority interest).² The capital rules also require amounts of mortgage servicing assets (MSAs), deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks (temporary difference DTAs), and certain investments in the capital of unconsolidated financial institutions above certain thresholds to be deducted from a banking organization's regulatory capital.³

The capital rules contain transition provisions that phase in certain requirements over several years in order to give banking organizations time to

¹ Banking organizations subject to the agencies' capital rules include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States that are not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but excluding certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, or bank holding companies and savings and loan holding companies that are employee stock ownership plans. The Board and the OCC issued a joint final rule on October 11, 2013 (78 FR 62018), and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). In April 2014, the FDIC adopted the interim final rule as a final rule with no substantive changes. 79 FR 20754 (April 14, 2014).

² 12 CFR 217.21 (Board); 12 CFR 3.21 (OCC); 12 CFR 324.21 (FDIC).

³ See 12 CFR 217.22(c)(4), (c)(5), and (d)(1) (Board); 12 CFR 3.22(c)(4), (c)(5), and (d)(1) (OCC); 12 CFR 324.22(c)(4), (c)(5), and (d)(1) (FDIC). Banking organizations are permitted to net associated deferred tax liabilities against assets subject to deduction.

adjust and adapt to the new requirements.⁴ The transition provisions in the capital rules provide for full effectiveness of the minority interest limitations and for fully phased-in deductions of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs beginning on January 1, 2018.⁵ The transition provisions in the capital rules also provide that the risk weight for MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from regulatory capital increase from 100 percent to 250 percent beginning on January 1, 2018.

In anticipation of issuing a separate notice of proposed rulemaking that would include changes to the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest, in August 2017, the agencies issued a notice of proposed rulemaking (transitions NPR) that would extend the current transition provisions for these items (*i.e.*, non-advanced approaches banking organizations would continue to apply the transition provisions applicable for calendar year 2017 for these items).⁶

II. Summary of the Transitions NPR

Since the issuance of the capital rules in 2013, banking organizations and other members of the public have raised concerns regarding the regulatory burden, complexity, and costs associated with certain provisions in the capital rules, particularly for community banking organizations. As explained in the Federal Financial Institutions Examination Council's March 2017 Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA report), the agencies planned to develop a proposal to simplify certain aspects of the capital rules with the goal of meaningfully reducing regulatory burden on community banking organizations while at the same time maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system.⁷

⁴ 12 CFR 217.300 (Board); 12 CFR 3.300 (OCC); 12 CFR 324.300 (FDIC).

⁵ 12 CFR 217.300(b)(4) and (d) (Board); 12 CFR 3.300(b)(4) and (d) (OCC); 12 CFR 324.300(b)(4) and (d) (FDIC).

⁶ 82 FR 40495 (August 25, 2017).

⁷ The EGRPRA report stated that such amendments likely would include simplifying the current regulatory capital treatment for MSAs, temporary difference DTAs, holdings of regulatory capital instruments issued by financial institutions;

Consistent with the agencies' statements in the EGRPRA report, in September 2017, the agencies approved a proposed rule to simplify certain aspects of the capital rules with the goal of meaningfully reducing regulatory burden on community banking organizations while at the same time maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system (simplifications NPR).⁸

In preparation for the issuance of the simplifications NPR, the agencies issued the transitions NPR in August 2017 to extend certain transition provisions in the capital rules for non-advanced approaches banking organizations. Specifically, the transitions NPR would extend the current treatment under the capital rules for MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and minority interest. The transitions NPR would extend this treatment only for non-advanced approaches banking organizations. As noted, the agencies proposed additional modifications to the treatment of these items in the simplifications NPR.

Under the transitions NPR, non-advanced approaches banking organizations would continue to:

- Deduct from regulatory capital 80 percent of the amount of MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, and significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock that are not includable in regulatory capital;

- Apply a 100 percent risk weight to any amounts of MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital; and
- Include 20 percent of any common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations

and minority interest. See 82 FR 15900 (March 30, 2017).

⁸ 82 FR 49984 (October 27, 2017).

(surplus minority interest) in regulatory capital.

For example, the transitions NPR would require a non-advanced approaches banking organization with an amount of MSAs above the 10 percent common equity tier 1 capital deduction threshold in the capital rules to deduct from common equity tier 1 capital 80 percent of the amount of MSAs above this threshold, and to apply a 100 percent risk weight to the MSAs that are not deducted from common equity tier 1 capital, including the MSAs that otherwise would be deducted but for the transition provisions.

The transitions NPR did not propose to modify the transition provisions applicable to advanced approaches banking organizations. Accordingly, under the proposal, beginning on January 1, 2018, advanced approaches banking organizations would be required to apply the fully phased-in regulatory capital treatment for MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and minority interest.⁹ The transitions NPR stated that the current regulatory capital treatment for items covered by the proposal strikes an appropriate balance between complexity and risk sensitivity for the largest and most complex banking organizations.¹⁰

III. Summary of Comments on the Transitions NPR

The agencies received 36 unique comment letters from banking organizations, trade associations, public interest groups, and private individuals, and nearly 200 uniform letters signed by different banking organizations and

⁹ The amendatory text of the respective agencies in this final rule includes the relevant transition provisions for advanced approaches banking organizations for convenient reference only. This final rule does not reflect any change to the transition schedule for advanced approaches banking organizations.

¹⁰ 82 FR 40497 (August 25, 2017). This final rule would require any banking organization meeting the capital rules' definition of an advanced approaches banking organization to fully phase in the capital treatment for these items. Banking organizations that meet the definition of an advanced approaches banking organization and that have not exited parallel run, or that do not calculate risk-weighted assets using the advanced approaches rule (such as intermediate holding companies of foreign banking organizations or certain subsidiaries of advanced approaches banking organizations), are nonetheless advanced approaches banking organizations.

bank employees. Numerous commenters supported the proposal to extend the 2017 transition provisions in order to reduce operational burden, complexity, and cost of the capital rules, particularly for community banking organizations. Some of these commenters stated that the proposed rule would promote lending and increase shareholder equity. Other commenters criticized the proposal on the grounds that the transitions NPR and simplification NPR do not go far enough. Some commenters argued that the agencies should have proposed freezing additional transition provisions. Also, some commenters recommended that the agencies propose more fundamental changes to the capital rules beyond the revisions proposed by the transitions NPR.

Several commenters criticized the limited scope of application of the transitions NPR, and recommended that the agencies apply the proposed changes to all banking organizations. A few commenters expressed concern about limiting the transitions NPR's scope of application to non-advanced approaches banking organizations; these commenters stated that the proposal would result in calculations of capital arbitrarily based on a banking organization's size. Some commenters criticized the use of the advanced approaches size thresholds more generally, and recommended that the agencies apply other criteria, such as the systemic indicator score for global systemically important bank holding companies (GSIBs), when tailoring the scope of the transitions NPR and, more generally, the regulatory capital rules.¹¹ These same commenters urged the agencies to revisit the size thresholds for the advanced approaches more generally. Some of these commenters suggested that certain advanced approaches banking organizations are predominantly engaged in traditional banking activities and therefore should not be deemed riskier than smaller non-advanced approaches banking organizations.

The agencies continue to believe that it is appropriate to tailor regulatory capital requirements to different banking organizations based, in certain cases, on the organization's size and level of complexity. In this regard, it is appropriate to impose more stringent capital requirements on more complex banking organizations, even where those banking organizations are not considered GSIBs.¹² The agencies

further note that there are several examples where the capital rules differentiate the treatment of exposures across different types of banking organizations. Such differentiation has generally reflected the variation in the size, complexity, and risk profile of banking organizations as well as considerations around implementation costs and operational burden. For example, banking organizations that engage in substantial trading activities are subject to the agencies' market risk capital rule,¹³ which requires banks to calculate market risk capital requirements based on bank models for estimating risk. Banking organizations not subject to the market risk capital rule are not required to develop these models or make adjustments based on market risk. This differentiation was intended to reduce the operational burden for banking organizations that do not have significant trading activities.

The agencies also note that the capital rules differentiated the transition provisions across different types of banking organizations in 2014 when advanced approaches banking organizations were required to begin the transition period for the revised minimum regulatory capital ratios, definitions of regulatory capital, and regulatory capital adjustments and deductions established under the agencies' capital rules, whereas non-advanced approaches banking organizations began their transition period in 2015. As indicated in the preamble to the 2013 final rulemaking to revise the capital rules, the agencies believe that advanced approaches banking organizations have the sophistication and infrastructure to implement and apply the fully phased-in treatment of the capital rules.¹⁴ Further, as indicated in the transitions NPR preamble, the fully phased-in treatment of the items discussed in that proposal remains appropriate for advanced approaches banking organizations given the business models and risk profiles of such banking organizations.

A related concern raised by some commenters was that the proposal would cause risk weights to vary for the same exposure category depending on the nature of the banking organization holding the asset. For the reasons discussed above, the agencies believe that it is appropriate to vary the

treatment of different exposures by the type of firm in the context of the final rule and note that the capital rules currently provide other circumstances where a banking organization may, or must, apply a different treatment to an exposure depending on the characteristics of the banking organization. As discussed, the agencies believe that the more stringent treatment that would apply to advanced approaches banking organizations under the transitions NPR is appropriate and are finalizing the proposal without change.

One commenter argued that the proposal appears to be inconsistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Collins Amendment),¹⁵ which, in the view of the commenter, suggests that the agencies must establish generally applicable risk-based and leverage capital requirements that treat all exposures consistently across all banking organizations regardless of a banking organization's size or total foreign exposure.

The Collins Amendment requires each of the agencies to establish minimum capital requirements for certain supervised banking organizations and authorizes the agencies to establish more stringent capital requirements.¹⁶ Under the proposal, all banking organizations would be subject to minimum capital requirements, as required by the Collins Amendment. Advanced approaches banking organizations would be implicitly required to meet the same capital floor set by the generally applicable capital requirements, but also would be subject to more stringent requirements relative to non-advanced approaches banking organizations, which is permitted by the Collins Amendment.

The capital rules already contain additional capital requirements based on the size or activities of a banking organization. These additional capital requirements (*e.g.*, the countercyclical capital buffer and supplementary leverage ratio) are greater than the minimum risk-based and leverage capital requirements established by the agencies. As noted, additional capital requirements are permitted under the Collins Amendment.

Some commenters argued that the transitions NPR was insufficient and failed to adequately reduce burden. Some argued that the proposal should have included other revisions to more generally address the complexity in the

H) is designed for a different context and purpose than the advanced approaches thresholds.

¹³ 12 CFR part 217, subpart F (Board); 12 CFR part 3, subpart F (OCC); 12 CFR part 324, subpart F (FDIC).

¹⁴ 78 FR 62028.

¹⁵ Codified at 12 U.S.C. 5371.

¹⁶ 12 U.S.C. 5371(b).

¹¹ See 12 CFR part 217, subpart H.

¹² The systemic indicator approach set forth in the Board's rule for GSIBs (12 CFR part 217, subpart

capital rules, namely for community banking organizations, while others asserted that the proposal should have allowed banking organizations to revert to earlier phase-in stages for MSAs or that it should have extended other transition provisions, such as those pertaining to the capital conservation buffer.

The agencies note that the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. In line with this intention, the agencies sought public comment “more narrowly on the changes proposed” in the transitions NPR, including comments on the administrative and operational challenges associated with the proposed changes and the scope of application of the transitions NPR.¹⁷ The agencies believe that the transition provisions in the capital rules provide an adequate amount of time for banking organizations to implement the requirements of the capital rules and are making limited changes to the transition provisions with this final rule solely in anticipation of the possible changes to the capital rules they recommended in the EGRPRA report and proposed in the simplifications NPR. The agencies will consider comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Several commenters made other suggestions for amendments to the capital rules more generally. For example, commenters argued that the capital rules are generally inappropriate for banking organizations with \$50 billion or less in total consolidated assets, should be restricted in scope to GSIBs, or should measure capital levels using tangible equity or based on the organization’s activities. They also argued that the capital rules require banking organizations to calculate too many capital ratios.

The various capital requirements under the agencies’ rules were designed to ensure that the banking system would be better able to absorb losses and continue lending during periods of economic stress by ensuring that the banking system was safer and more resilient. The capital rules achieved this goal by improving the quality and increasing the quantity of capital across the banking system.¹⁸ The agencies note that various elements of the capital rules are tailored to the size and complexity of covered banking organizations. In addition, the agencies believe that

certain aspects of the capital rules could be revised to reduce regulatory burden while at the same time ensuring an appropriate regulatory capital treatment to address safety and soundness concerns, and have outlined proposed changes to that effect in the simplifications NPR. Furthermore, as noted previously in this preamble, the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. The agencies will consider comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Several commenters also suggested other specific changes to the capital rules. For example, some commenters suggested changes to the treatment of MSAs more generally, including raising the deduction thresholds and reducing the applicable risk weight. Many commenters suggested that the agencies should amend the treatment of investments in the capital of financial institutions, specifically investments in trust preferred securities, while one commenter criticized the current treatment of high volatility commercial real estate exposures as difficult to apply and requiring too much capital to be held against these exposures. A commenter suggested that the agencies allow advanced approaches banking organizations to neutralize accumulated other comprehensive income in regulatory capital. A commenter criticized the capital rules’ treatment of Subchapter S corporations with respect to the capital conservation buffer. Another commenter criticized the netting treatment for securities financing transactions (SFTs), and urged the agencies to revise the methodology for calculating risk weights for SFTs in the capital rules. Another commenter asserted that the current 100 percent risk weight for exposures to broker-dealers and securities firms is too high. Another commenter argued that agencies should amend the risk weight for certain cleared transactions in the standardized approach to align with the treatment in the advanced approaches. A commenter asserted that the capital rules imposed an inappropriate data collection, technology, and reporting burden on community banking organizations.

As noted previously in this preamble, the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. The agencies will consider

comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Further, a commenter raised concerns about the implementation of the current expected credit loss (CECL) accounting standard and its impact on capital requirements in the context of the transitions NPR so that banking organizations can evaluate the cumulative effect of all final changes to the capital rules and CECL at one time. The agencies recognize that CECL will affect accounting provisions and, consequently, retained earnings and regulatory capital, and that the amount of the effect will differ among banking organizations. However, in order to provide meaningful burden relief, the transitions NPR will need to be finalized and become effective on or before January 1, 2018, when the regulatory capital treatment for items covered by the transitions NPR would otherwise be fully phased in. That said, the agencies are considering separately whether or not it will be appropriate to make adjustments to the capital rules in response to CECL and its potential impact on regulatory capital.

After consideration of comments received on the transitions NPR, to reduce regulatory burden on non-advanced approaches banking organizations and for the other reasons stated above, and in light of the pendency of the simplifications NPR, the agencies are adopting the proposal as a final rule effective January 1, 2018.

IV. Amendments to Reporting Forms

The agencies will clarify the reporting instructions for the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Control Nos. 1557–0081, 7100–0036, 3604–0052), the OCC will clarify the instructions for OCC DFAST 14A (OMB Control No. 1557–0319), the FDIC will clarify the instructions for FDIC DFAST 14A (OMB Control No. 3064–0189), and the Board will clarify the instructions for the FR Y–9C (OMB Control No. 7100–0128), and the FR Y–14A and FR Y–14Q (OMB Control No. 7100–0341) to reflect the changes to the capital rules resulting from this final rule.

V. Regulatory Analyses

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid

¹⁷ 82 FR 40497 (August 25, 2017).

¹⁸ 78 FR 62062.

Office of Management and Budget (OMB) control number. The agencies reviewed the final rule and determined that it does not create any new or revise any existing collection of information under section 3504(h) of title 44.

Accordingly, no information collection request has been submitted to the OMB for review. The agencies did not receive any comments on the PRA. However, the agencies will clarify the reporting instructions for the Call Report. The revised draft Call Report instructions to reflect the transitions NPR are publicly available at https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_20170824_i_draft.pdf. The OCC and FDIC will clarify the instructions for DFAST 14A, and the Board will clarify the instructions for the FR Y-9C, the FR Y-14A, and the FR Y-14Q to reflect the changes to the capital rules that would be required under this final rule. The updated Call Report instructions will be available at https://www.ffiec.gov/ffiec_report_forms.htm, the updated OCC DFAST 14A instructions will be available at <https://www.occ.gov/tools-forms/forms/bank-operations/stress-test-reporting.html>, the updated FDIC DFAST 14A instructions will be available at <https://www.fdic.gov/regulations/reform/dfast/>, and the updated FR Y-9C, FR Y-14A, and FR Y-14Q instructions will be available at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

B. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, (RFA), requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include banking entities with total assets of \$550 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

As of March 31, 2017, the OCC supervised 972 small entities.¹⁹ The rule applies to all OCC-supervised entities that are not subject to the advanced approaches risk-based capital rules, and thus potentially affects a substantial number of small entities. The OCC has determined that 139 OCC-supervised

small entities will be directly impacted by the final rule provisions pertaining to the transitions for the threshold deduction items, two OCC-supervised small entities will be directly impacted by the final rule provisions pertaining to the transitions for the surplus minority interest, and 596 OCC-supervised small entities will be directly impacted by the final rule provisions that retain the 100 percent risk weight (instead of a 250 percent risk weight) for non-deducted MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions. However, the final rule would provide a small economic benefit to those entities, and value of the change in capital levels will be significant only for three such entities. Thus, the OCC has determined that rule would not have a significant impact on a substantial number of OCC-supervised small entities.

Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The Board is providing a regulatory flexibility analysis with respect to this final rule. RFA generally requires that an agency prepare and make available a final regulatory flexibility analysis in connection with a final rulemaking. As discussed in the Supplemental Information, the final rule revises the transition provisions in the regulatory capital rules to extend the treatment effective for calendar year 2017 for several regulatory capital adjustments and deductions that are subject to multi-year phase-in schedules. Through the simplifications NPR, the agencies have sought public comment on a proposal to simplify certain items of the regulatory capital rules and, thus, the agencies believe it is appropriate to extend the transition provisions currently in effect for these items while the simplifications NPR is pending.

Under regulations issued by the SBA, a small entity includes a bank, bank holding company, or savings and loan holding company with assets of \$550 million or less (small banking organization).²⁰ As of June 30, 2017, there were approximately 3,451 small bank holding companies, 224 small savings and loan holding companies, and 566 small state member banks. The final rule applies to all state member banks, as well as all bank holding

companies and savings and loan holding companies that are subject to the Board's regulatory capital rules, but excluding state member banks, bank holding companies, and savings and loan holding companies that are subject to the advanced approaches in the capital rules. In general, the Board's capital rules only apply to bank holding companies and savings and loan holding companies that are not subject to the Board's Small Bank Holding Company Policy Statement, which applies to bank holding companies and savings and loan holding companies with less than \$1 billion in total assets that also meet certain additional criteria.²¹ Thus, most bank holding companies and savings and loan holding companies affected by the final rule exceed the \$550 million asset threshold at which a banking organization would qualify as a small banking organization.

The agencies received no comments on the initial regulatory flexibility analysis from the public or from the Chief Counsel for Advocacy of the SBA. As discussed in the Supplemental Information, various commenters suggested additional ways for the agencies to more broadly reduce the overall burden of the capital rules.

The final rule does not impact the recordkeeping and reporting requirements for affected small banking organizations. The final rule instead retains the transition provisions in effect for calendar year 2017 for the items that would be affected by the simplifications NPR until the simplifications NPR is finalized or the agencies determine otherwise. The final permits affected small banking organizations, beginning in 2018 and thereafter, to deduct less investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from common equity tier 1 capital than would otherwise be required under the current transition provisions. The final rule also allows small banking organizations to continue using a 100 percent risk weight for non-deducted MSAs, temporary difference DTAs and significant investments in the capital of unconsolidated financial institutions rather than the 250 percent risk weight for these items which is scheduled to take effect beginning January 1, 2018. Thus, for small banking organizations that have significant amounts of MSAs or temporary difference DTAs, the final rule could have a temporary positive impact in their capital ratios during 2018 and thereafter.

¹⁹ The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are \$550 million and \$38.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or Federal savings association as a small entity.

²⁰ See 13 CFR 121.201. Effective July 14, 2014, the SBA revised the size standards for banking organizations to \$550 million in assets from \$500 million in assets. 79 FR 33647 (June 12, 2014).

²¹ See 12 CFR 217.1(c)(1)(ii) and (iii); 12 CFR part 225, appendix C; 12 CFR 238.9.

As discussed in the initial regulatory flexibility analysis, the final rule is expected to provide a reduction in capital requirements for small bank holding companies, savings and loan holding companies, and state member banks. Specifically, the impact from increasing the deduction of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from 80 percent of the amounts to be deducted under the capital rules in 2017 to 100 percent in 2018 is estimated to decrease common equity tier 1 capital by 0.02 percent on average across all covered small bank holding companies, savings and loan holding companies, and state member banks. Similarly, the impact from increasing from 80 percent in 2017 to 100 percent in 2018 the exclusion of surplus minority interest is estimated to decrease total regulatory capital by 0.11 percent across the same set of institutions. Based on March 31, 2017 data for the same set of institutions, increasing the risk weight for non-deducted MSAs and temporary difference DTAs to 250 percent from 100 percent would result in an increase in risk-weighted assets of 0.45 percent. Therefore, the final rule's retention of the transition provisions for the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest, would have a marginally positive impact on the regulatory capital ratios of small banking organizations.

As discussed, the economic impact of the final rule on small banking organizations is expected to be marginally positive. As a result, the Board did not adopt any alternative to the proposal in the final rule.

FDIC: The RFA generally requires that, in connection with a final rule, an agency prepare a regulatory flexibility analysis describing the impact of the final rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined "small entities" to include banking organizations with total assets less than or equal to \$550 million. As of June 30, 2017, the FDIC supervises 3,717 banking institutions, 2,990 of which qualify as small entities according to the terms of the RFA.

The final rule will extend the current regulatory capital treatment of: (i) MSAs; (ii) temporary difference DTAs; (iii) significant investments in the capital of unconsolidated financial institutions in the form of common

stock; (iv) non-significant investments in the capital of unconsolidated financial institutions; (v) significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock; and (vi) common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. The transitions NPR will likely pose small economic benefits for small FDIC-supervised institutions by preventing any increase in risk-based capital requirements due to the completion of the transition provisions for the above items.

According to Call Report data (as of June 30, 2017), 424 FDIC-supervised small banking entities reported holding some volume of the above asset classes. Additionally, as of June 30, 2017, the risk-based capital deduction related to these assets under the capital rules has been incurred by only 52 FDIC-supervised small banking entities.

The impact from increasing the deduction of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from 80 percent of the amounts to be deducted under the capital rules (12 CFR 324.300) in 2017 to 100 percent in 2018 would decrease common equity tier 1 capital by 0.02 percent on average across all covered small FDIC-supervised banking institutions. Similarly, the impact from increasing from 80 percent in 2017 to 100 percent under the capital rules (12 CFR 324.300) in 2018 the exclusion of surplus minority interest would decrease total regulatory capital by 0.01 percent across the same set of institutions. Based on June 30, 2017 data for the same set of institutions, increasing the risk weight for non-deducted MSAs and temporary difference DTAs to 250 percent from 100 percent would result in an increase in risk-weighted assets of 0.37 percent. Therefore, retaining the transition provisions for the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest will have a marginally positive impact on the regulatory capital ratios of nearly all small FDIC-supervised banking institutions.

FDIC analysis has identified that absent the transitions NPR, 31 small FDIC-supervised banking institutions would have a decrease of 1 percent or more in common equity tier 1 capital, tier 1 capital and or total capital. Furthermore, 31 small FDIC-supervised banking institutions would have an

increase in risk-weighted assets greater than 3 percent absent the transitions NPR. Therefore, the FDIC certifies that this final rule will not have a significant economic impact on a substantial number of small entities that it supervises.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

D. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule 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 (adjusted for inflation). The OCC has determined that this final rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of \$100 million or more in any one year.²² Accordingly, the OCC has not prepared a written statement to accompany this NPR.

E. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

For purposes of SBREFA, the OMB makes a determination as to whether a final rule constitutes a "major" rule. If a rule is deemed a "major rule" by the OMB, SBREFA generally provides that the rule may not take effect until at least 60 days following its publication.²³ Notwithstanding any potential delay related to the OMB's pending determination, banking organizations subject to this final rule will be

²² The OCC estimates that the final rule would lead to an aggregate increase in reported regulatory capital in 2018 for national banks and Federal savings associations compared to the amount they would report if they were required to complete the 2018 phase-in provisions. The OCC estimates that this increase in reported regulatory capital—which could allow banking organizations to increase their leverage and thus increase their tax deductions for interest paid on debt—would have a total aggregate value of approximately \$121 million per year across all directly impacted OCC-supervised entities (that is, national banks and Federal savings associations not subject to the advanced approaches risk-based capital rules).

²³ 5 U.S.C. 801(a)(3).

permitted to elect to comply with it as of January 1, 2018.

SBREFA defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) 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.²⁴

F. Administrative Procedure Act

The Administrative Procedure Act (“APA”) requires that a final rule be published in the **Federal Register** no less than 30 days before its effective date unless, among other exceptions, the final rule relieves a restriction.²⁵ The final rule extends certain transition provisions that were set to expire on December 31, 2017, and thus relieves non-advanced approaches banking organizations from compliance with certain stricter capital requirements that would otherwise have taken effect on January 1, 2018.

G. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.²⁶ The final rule includes no new reporting, disclosure, or other new

requirements on insured depository institutions as it only delays the implementation of certain requirements in the capital rule for non-advanced approaches organizations.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Risk.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies.

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Savings associations, State non-member banks.

Office of the Comptroller of the Currency

For the reasons set out in the joint preamble, the OCC amends 12 CFR part 3 as follows.

PART 3—CAPITAL ADEQUACY STANDARDS

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

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

■ 2. Section 3.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 10 to § 3.300 to read as follows:

§ 3.300 Transitions.

* * * * *

(b) * * *

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association, must use Table 7 to § 3.300 to determine the amount of investments in capital instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 3.22(d)) (that is, MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not

realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 3.22(d)(2), beginning January 1, 2018, a national bank or Federal savings association must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 3.300

Transition period	Transitions for deductions under § 3.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014	20
Calendar year 2015	40
Calendar year 2016	60
Calendar year 2017	80
Calendar year 2018 and thereafter	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank’s or Federal savings association’s 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum of the national bank’s or Federal savings association’s

²⁴ 5 U.S.C. 804(2).

²⁵ 5 U.S.C. 553(d)(1).

²⁶ 12 U.S.C. 4802.

common equity tier 1 elements, after regulatory adjustments and deductions required under § 3.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018, a national bank or Federal savings association must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 3.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 3.22(c)(4), (c)(5), and (d), respectively.

* * * * *

(d) *Minority interest*—(1) *Surplus minority interest*—(i) *Advanced approaches national bank or Federal savings association surplus minority interest.* Beginning January 1, 2014 through December 31, 2017, an advanced approaches national bank or Federal savings association may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest, or total capital minority interest includable under § 3.21 (surplus minority interest), respectively, as set forth in Table 10 to § 3.300.

(ii) *Non-advanced approaches national bank and Federal savings association surplus minority interest.* A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital

minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest, or total capital minority interest includable under § 3.21 (surplus minority interest), respectively.

* * * * *

TABLE 10 TO § 3.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014	80
Calendar year 2015	60
Calendar year 2016	40
Calendar year 2017	20
Calendar year 2018 and thereafter	0

* * * * *

12 CFR Part 217

Board of Governors of the Federal Reserve System

For the reasons set out in the joint preamble, part 217 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

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

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

■ 4. Section 217.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 10 to § 217.300 to read as follows:

§ 217.300 Transitions.

* * * * *

(b) * * *

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014 for an advanced approaches Board-regulated institution, and beginning January 1, 2015 for a Board-regulated institution that is not an advanced approaches institution, and in each case through December 31, 2017, an institution, must use Table 7 to § 217.300 to determine

the amount of investments in capital instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 217.22(d)) (that is, MSAs, DTAs arising from temporary differences that the institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014 for an advanced approaches institution, and beginning January 1, 2015 for an institution that is not an advanced approaches institution, and in each case through December 31, 2017, an institution must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 217.22(d)(2), beginning January 1, 2018, a Board-regulated institution must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 217.300

Transition period	Transitions for deductions under § 217.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014	20
Calendar year 2015	40
Calendar year 2016	60
Calendar year 2017	80
Calendar year 2018 and thereafter	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014 for an advanced approaches Board-regulated institution, and beginning January 1, 2015 for Board-regulated institution that is not an advanced approaches Board-regulated institution, and in each case through December 31, 2017, an institution's 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum of the institution's common equity tier 1 elements, after regulatory

adjustments and deductions required under § 217.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018 a Board-regulated institution must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 217.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, a Board-regulated institution that is not an advanced approaches Board-regulated institution must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 217.22(c)(4), (c)(5), and (d), respectively.

(d) *Minority interest*—(1) *Surplus minority interest*—(i) *Advanced approaches institution surplus minority interest.* Beginning January 1, 2014 through December 31, 2017, an advanced approaches Board-regulated institution may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under § 217.21 (surplus minority interest), respectively, as set forth in Table 10 to § 217.300.

(ii) *Non-advanced approaches institution surplus minority interest.* A Board-regulated institution that is not an advanced approaches Board-regulated institution may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under

§ 217.21 (surplus minority interest), respectively.

* * * * *

TABLE 10 TO § 217.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014	80
Calendar year 2015	60
Calendar year 2016	40
Calendar year 2017	20
Calendar year 2018 and thereafter	0

* * * * *

12 CFR Part 324

Federal Deposit Insurance Corporation

For the reasons set out in the joint preamble, the FDIC amends 12 CFR part 324 as follows.

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

■ 5. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

■ 6. Section 324.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 9 to § 324.300 to read as follows:

§ 324.300 Transitions.

* * * * *

(b) * * *

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014, for an advanced approaches FDIC-supervised institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution, must use Table 7 to § 324.300 to determine the amount of investments in capital

instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 324.22(d)) (that is, MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014, for an FDIC-supervised advanced approaches institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 324.22(d)(2), beginning January 1, 2018, an FDIC-supervised institution must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 324.300

Transition period	Transitions for deductions under § 324.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014	20
Calendar year 2015	40
Calendar year 2016	60
Calendar year 2017	80
Calendar year 2018 and thereafter	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014, for an advanced approaches FDIC-supervised institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution's 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum

of the FDIC-supervised institution's common equity tier 1 elements, after regulatory adjustments and deductions required under § 324.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018, an FDIC-supervised institution must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 324.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 324.22(c)(4), (c)(5), and (d), respectively.

* * * * *

(d) *Minority interest—(1) Surplus minority interest—(i) Advanced approaches FDIC-supervised institution surplus minority interest.* Beginning January 1, 2014, through December 31, 2017, an advanced approaches FDIC-supervised institution may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under § 324.21 (surplus minority interest), respectively, as set forth in Table 9 to § 324.300.

(ii) *Non-advanced approaches FDIC-supervised institution surplus minority interest.* An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest

or total capital minority interest includable under § 324.21 (surplus minority interest), respectively.

* * * * *

TABLE 9 TO § 324.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014	80
Calendar year 2015	60
Calendar year 2016	40
Calendar year 2017	20
Calendar year 2018 and thereafter	0

* * * * *

Dated: November 13, 2017.

Keith A. Noreika,
Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, November 15, 2017.

Ann E. Misback,
Secretary of the Board.

Dated at Washington, DC this 14th of November, 2017.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2017-25172 Filed 11-20-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-0598]

RIN 1625-AA08

Special Local Regulation; Gulf of Mexico; Englewood, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race, an annually recurring event in the month of November. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on navigable waters of

the United States during the event. The special local regulation establishes the following three areas: A race area where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a spectator area where all vessels must be anchored or operate at No Wake Speed; and an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions.

DATES: This rule is effective without actual notice November 21, 2017. For the purposes of enforcement, actual notice will be used from November 15, 2017 through November 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0598 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Michael D. Shackelford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, email Michael.d.shackelford@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- FR Federal Register
- NPRM Notice of proposed rulemaking
- § Section
- U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race. The race will normally occur annually from 9 a.m. to 5 p.m. on the third weekend of November (Friday, Saturday, and Sunday). In 2017, the race will occur daily from 9:00 to 5:00 p.m. starting from Friday, November 17, 2017 through Sunday, November 19, 2017. Approximately 60 boats, ranging in length from 22 feet to 50 feet, traveling at speeds in excess of 77 miles per hour are expected to participate. Additionally, it is anticipated that 100 spectator vessels will be present along the race course.

The Coast Guard published a notice of proposed rulemaking (NPRM) on September 26, 2017, entitled "Special Local Regulation; Gulf of Mexico;

Englewood, FL” (see 82 FR 44751). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the high speed boat races. During the comment period that ended October 26, 2017, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with this event, which will take place this year from Friday, November 17, 2017 through Sunday, November 19, 2017.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port St. Petersburg (COTP) has determined this rulemaking is necessary to provide for the safety of race participants, participant vessels, spectators, and the general public on these navigable waters of the United States during the OPA World Championships.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on the NPRM, which published September 26, 2017. We are modifying the regulatory text of this rule to clarify that we will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast Notice to Mariners.

This rule establishes a special local regulation that will encompass certain waters of the Gulf of Mexico in Englewood, Florida. The special local regulation will be enforced daily from 9:00 a.m. until 5:00 p.m. during the race event. The special local regulation will establish the following three areas: (1) A race area where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a spectator area where all vessels must be anchored or operate at No Wake Speed; and (3) an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions. In 2017, the race will be occurring on Friday, November 17, 2017 through Sunday, November 19, 2017.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port (COTP) St. Petersburg by

telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the following reasons: (1) The special local regulation will be enforced for only eight hours on three days; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area or anchor in the spectator area, during the enforcement period if authorized by the COTP St. Petersburg or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and/or Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a marine boat race. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.735 to read as follows:

§ 100.735 Special Local Regulation; Annual OPA World Championships, Gulf of Mexico; Englewood Beach, FL.

(a) *Regulated areas.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Race area.* All waters of the Gulf of Mexico contained within the following points: 26°56'00" N., 082°22'11" W., thence to position 26°55'59" N., 082°22'16" W., thence to position 26°54'22" N., 082°21'20" W., thence to position 26°54'24" N., 082°21'16" W., thence to position 26°54'25" N., 082°21'17" W., thence back to the original position 26°56'00" N., 082°21'11" W.

(2) *Spectator area.* All waters of the Gulf of Mexico contained with the following points: 26°55'33" N., 082°22'21" W., thence to position 26°54'14" N., 082°21'35" W., thence to position 26°54'11" N., 082°21'40" W., thence to position 26°55'31" N., 082°22'26" W., thence back to position 26°55'33" N., 082°22'21" W.

(3) *Enforcement area.* All waters of the Gulf of Mexico encompassed within the following points: 26°56'09" N., 082°22'12" W., thence to position 26°54'13" N., 082°21'03" W., thence to position 26°53'58" N., 082°21'43" W., thence to position 26°55'56" N., 082°22'48" W., thence back to position 26°56'09" N., 082°22'12" W.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or

remaining within the Race Area unless an authorized race participant.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) All vessels are to be anchored and/or operate at a No Wake Speed in the spectator area. On-scene designated representatives will direct spectator vessels to the spectator area.

(4) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP St. Petersburg by telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative.

(5) The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast Notice to Mariners.

(d) *Enforcement period.* This rule will be enforced daily from 9 a.m. to 5 p.m. on the third weekend of November (Friday, Saturday and Sunday).

Holly L. Najarian,

Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.

[FR Doc. 2017–25182 Filed 11–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0561]

RIN 1625–AA09

Drawbridge Operation Regulation; Upper Mississippi River, IA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the draws of all bridges between Lock and Dam No. 14, mile 493.3, and Lock and Dam No. 10, mile 615.1, on the Upper Mississippi River by adding a 24-hour notice requirement for openings during the winter season. This revision allows the drawbridges to remain in the closed-to-navigation position for extended periods allowing the owners of the drawbridges to perform preventive maintenance that is essential to the safe

operation of the drawbridges. This final rule will allow for flexibility in beginning these special operating schedules each year based on the arrival of winter weather.

DATES: This rule is effective on December 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0561. In the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
NPRM Notice of proposed rulemaking
SNPRM Supplemental notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On January 4, 2017, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Upper Mississippi River, IA in the **Federal Register** (82 FR 787). We received 0 comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. This rule changes the operating schedule for three bridges by revising the regulations governing the Upper Mississippi River drawbridge operating requirements under 33 CFR 117.671(a) to include these bridges. Currently, this special operating schedule applies to the draws of all bridges on the Upper Mississippi River from Lock and Dam No. 10, mile 615.1 to Lock and Dam No. 2, mile 815.2. The operating schedule changes will now include the draws of three additional bridges located between Lock and Dam No. 14, mile 493.3 to Lock and Dam No. 10, mile 615.1. This rule also changes the language of 117.671(a) and (b) to begin the special operating schedules on or about December 15 each year instead of on December 15 each year. A notice of enforcement will be issued each year indicating the start date for the special operating schedule.

The bridges that will be included in this amended special local regulation are the Clinton Railroad Drawbridge, mile 518.0, at Clinton, IA, the Sabula Railroad Drawbridge, mile 535.0, at Sabula, IA, and the Illinois Central Railroad Drawbridge, mile 579.9, at Dubuque, IA. Currently these bridges open on signal. This change will require the bridges to open on signal if at least 24 hours advance notice is given beginning on or about December 15 and lasting through the last day of February each year.

Winter conditions, such as ice on the Upper Mississippi River, coupled with annual closure of various lock and dams between mile 493.3 and 615.1, will preclude any significant navigation demands for the drawspan openings. There are no alternate routes for vessels transiting this section of the Upper Mississippi River and the bridges cannot open in case of emergency during preventative maintenance operations; the drawbridges would open if at least 24 hours advance notice is given.

IV. Discussion of Final Rule

The Coast Guard provided a comment period of 60 days and no comments were received. No changes have been made to the proposed rule.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the availability for vessels to transit the bridge provided advanced notice is given. Moreover, the advanced notice requirement will be during the winter months, which is a time of year when vessel traffic is at its lowest as has been done in past years utilizing

temporary deviations to provide for the change in bridge openings.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this final rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction. A Memorandum for the Record (MWR) supporting this

determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

- 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

- 2. Revise § 117.671 to read as follows:

§ 117.671 Upper Mississippi River.

(a) The draws of all bridges between Lock and Dam No. 14, mile 493.3, and Lock and Dam No. 2, mile 815.2, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 24 hours notice is given.

(b) The draws of all bridges between Lock and Dam No. 2, mile 815.2 and Lock and Dam No. 1, mile 847.6, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 12 hours notice is given.

Dated: October 13, 2017.

P.F. Thomas,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2017–25197 Filed 11–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1031]

Drawbridge Operation Regulation; Passaic River, Newark, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Routes 1 & 9 (Lincoln Highway) Bridge across the Passaic River, mile 1.8 at Newark, New Jersey. This deviation is necessary to facilitate structural steel repairs at the lift span and allowing the bridge owner to temporarily close the draw for forty-seven days.

DATES: This deviation is effective without actual notice from November 21, 2017 until 11:59 p.m. on January 5, 2018. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on November 20, 2017 until November 21, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–1031, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Judy K. Leung-Yee, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4336, email Judy.K.Leung-Yee@uscg.mil.

SUPPLEMENTARY INFORMATION: The owner of the bridge, the New Jersey Department of Transportation, requested a temporary deviation in order to facilitate structural steel repairs at the lift span.

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

This temporary deviation will allow the Routes 1 & 9 Bridge to remain in the closed position from 12:01 a.m. on November 20, 2017 to 11:59 p.m. on January 5, 2018. The waterway users are seasonal recreational vessels and commercial vessels of various sizes. Coordination with waterway users indicated no objection to the proposed closure of the draw. Vessels that can pass under the bridge without an opening may do so at all times. The bridge will not be able to open for emergencies. There is no alternate route for vessels to pass.

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

impact caused by the temporary deviation.

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

Dated: November 16, 2017.

Christopher J. Bisignano,
Supervisory Bridge Management Specialist,
First Coast Guard District.

[FR Doc. 2017-25157 Filed 11-20-17; 8:45 am]

BILLING CODE 9110-04-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 360

[Docket No. 17-CRB-0012-RM]

Procedural Regulations for the Copyright Royalty Board Regarding Electronic Filing of Claims; Corrections

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Correcting amendment.

SUMMARY: On June 13, 2017, the Copyright Royalty Judges revised their rules regarding filing of claims. That document inadvertently added a requirement that filers of joint DART claims include addresses and email addresses for all claimants. Interested parties filed a petition to amend asking the Judges to remove the requirement because the proposed rule did not include it. This document corrects the final regulations to remove the requirement.

DATES: Effective November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, by telephone at (202) 707-7658 or email at crb@loc.gov. *Docket:* For access to the docket to read background documents, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/> and search for docket number 17-CRB-0012-RM.

SUPPLEMENTARY INFORMATION: On August 22, 2017, ASCAP, BMI, SESAC, AARC, and HFA petitioned the Copyright Royalty Judges to amend the rule regarding filing of DART joint claims, 82 FR 27016, because the proposed rule did not discuss a change requiring addresses and email addresses of all claimants listed in joint claims, and the new requirement places a burden upon

the petitioning parties that was likely unintended.

The preamble to the proposed rule, 82 FR 14167, addressed the purpose of the revisions to the rules: (1) Changes were necessary due to implementation of an electronic filing system, and (2) consolidation of rules was necessary to streamline the regulations regarding cable and satellite claims. The preamble also stated that the rules regarding DART claims would be relocated, but it did not mention any other changes to the DART rules. In the final rule, the Judges mistakenly added a requirement that filers include in the content of joint DART claims the addresses and email addresses of all listed claimants.

The petitioners argue that if the rule stands they will not be able to file joint claims for their clients because of confidentiality restrictions regarding release of address information. Had the Judges proposed a change in the rule to require addresses and email addresses, the petitioners would have submitted a comment objecting to that requirement.

In light of the fact that the claims filing period for DART starts in less than two months, the Judges do not intend to impose a greater burden on the petitioners than in past filing periods. They remove the requirement for claimant addresses and email addresses from the regulations governing the content of joint DART claims.

List of Subjects in 37 CFR Part 360

Administrative practice and procedure, Cable royalties, Claims, Copyright, Electronic filing, Satellite royalties.

Accordingly, 37 CFR part 360 is corrected by making the following correcting amendments:

PART 360—FILING OF CLAIMS TO ROYALTY FEES COLLECTED UNDER COMPULSORY LICENSE

■ 1. The authority citation for part 360 continues to read as follows:

Authority: 17 U.S.C. 801, 803, 805.
Subpart A also issued under 17 U.S.C. 111(d)(4) and 119(b)(4).
Subpart B also issued under 17 U.S.C. 1007(a)(1).
Subpart C also issued under 17 U.S.C. 111(d)(4), 119(b)(4) and 1007(a)(1).

■ 2. In § 360.22, revise paragraph (e) to read as follows:

§ 360.22 Form and content of claims.

* * * * *
(e) *List of claimants.* If the claim is a joint claim, it must include the name of each claimant participating in the joint claim. Filers submitting joint claims online through eCRB on behalf of ten or

fewer claimants, must list the name of each claimant included in the joint claim directly on the filed joint claim. Filers submitting joint claims on behalf of more than ten claimants must include an Excel spreadsheet listing the name of each claimant included in the joint claim. For joint claims filed by mail or hand delivery, the filer may submit the list containing the name of each claimant included in the joint claim in a single Excel spreadsheet on CD, DVD, or other electronic storage medium.

* * * * *

Dated: November 16, 2017.

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

[FR Doc. 2017-25183 Filed 11-20-17; 8:45 am]

BILLING CODE 1410-72-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 43, and 63

[IB Docket No. 17-55; 16-131, FCC 17-136]

Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) eliminates the annual international Traffic and Revenue Reports. The submission of the Traffic and Revenue Reports is no longer necessary as the costs of the data collection now exceed its benefits. Instead, the Commission will rely on commercially available data, along with targeted data collections when necessary, to meet its statutory objectives. The Report and Order also reduces the burdens of the Circuit Capacity Reports, for instance by eliminating reporting of terrestrial and satellite circuits.

DATES: Effective December 21, 2017, except for 47 CFR 0.457(d)(1)(xi), 1.767(g)(13) through (16), 43.62, 43.82, 63.10(c)(2), 63.21(d), 63.22(e), (h) and (i). The amendments to 47 CFR 43.62, 43.82, and 63.22(h) require approval of information collection requirements by the Office of Management and Budget (OMB) prior to becoming effective; and the effective date for amendments to 47 CFR 0.457(d)(1)(xi), 1.767(g)(13) through (16), 63.10(c)(2), 63.21(d), 63.22(e) and (i) will be the same as those for 47 CFR 43.62, 43.82, and 63.22(h) because those amendments are directly related to each

other. The Commission will publish a separate document in the **Federal Register** announcing the effective date of these rule changes.

FOR FURTHER INFORMATION CONTACT: Veronica Garcia-Ulloa, Kimberly Cook, or David Krech, Telecommunications and Analysis Division, International Bureau, FCC, (202) 418-1480 or via email to Veronica.Garcia-Ulloa@fcc.gov, Kimberly.Cook@fcc.gov, David.Krech@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams, Office of the Managing Director, FCC, (202) 418-2918 or via email to Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket Nos. 17-55 and 16-131, FCC 17-136, adopted and released on October 24, 2017. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The Report and Order is also available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1024/FCC-17-136A1.pdf. The Commission will send a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A).

Synopsis

A. Traffic and Revenue Reports

1. After reviewing the record and based on its understanding of the competitive nature of the international services sector, the Commission concludes that the filing by providers of the annual Traffic and Revenue Reports is no longer necessary, as the costs of this data collection now exceed the benefits of the information. As advocated by parties in this proceeding, the Commission will rely on targeted data collections when necessary in combination with third party commercial data sources to achieve the Commission's statutory obligations, including the ability to enforce its benchmarks policy or address any other anticompetitive concerns that may arise on U.S.-international routes, in a way that will impose fewer costs on both international service providers and the Commission. To minimize the burdens with this approach, each service provider is required to complete a one-time filing, to be updated as appropriate, listing the routes on which it has direct termination arrangements with a carrier in the foreign destination.

2. Based on its review of the record in this proceeding, the Commission agrees with commenters that there are significant costs to prepare and file the Traffic and Revenue Reports. The Commission conducts the cost-benefit analysis here using a "breakeven analysis" to determine how large the benefits would need to be to exceed the estimated costs. Based on that review, the Commission concludes that the annual social benefits attributable to the Traffic and Revenue Reports no longer exceed their estimated social cost.¹

3. In 2016, 1,957 entities filed information regarding their 2015 international traffic and revenue.² Based on the Commission's previous estimates³ and on the record, the best estimate of the industry-wide cost of collecting and filing the traffic and revenue data in 2016 ranges from \$604,415 to \$1,203,160.⁴ In addition,

¹ The social benefit is the total benefit to society from providing the reports, and the social cost is the total cost to society of producing them, including the private costs to industry and the Commission of collecting the data and producing a report.

² Of the 1,957 entities, 1,801 filed a registration form without any data because they either did not have any international revenues in 2015 or had less than \$5 million in International Calling Service (ICS) resale revenue. Seventy five filed data for route-specific ICS facilities-based services and facilities-based International Private Line Services. Eighty one filed only the world ICS resale data, resale private line services, and/or International Miscellaneous Services.

³ The Commission used an estimate of the average burden for the filing entities. For example, the burden estimate should be higher than the actual burden for entities with facilities-based service on a few routes and lower than the burden on entities with worldwide facilities-based services, such as AT&T and Verizon. In 2014, the Commission estimated that on average filers spend one hour preparing and filing the registration form; two hours preparing and filing world total ICS resale data; 150 hours preparing and submitting route-by-route data for facilities-based ICS and/or international private lines; and 50 hours preparing and filing revised data. The Commission estimated the hourly cost at \$35 per hour. See OMB Control Number 3060-1156, ICR Ref. No. 201501-3060-002, FCC Supporting Statement at 11-13 (2014) (2014 Supporting Statement), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201501-3060-002.

⁴ In estimating the costs, the Commission used a range of hours to account for the differences between entities serving a few routes and those with worldwide service. Based on the very general evidence in the record, the Commission chose 406 hours as the upper limit of the range to approximately reflect the potentially higher number of hours that a few large carriers, such as AT&T and Verizon, reportedly needed. The Commission used a range of one to two hours to fill out, verify, and submit the registration form. This approach accounts for Iridium's criticism that filling out a registration form may require examining the firm's data to ensure that it is appropriate, and having an attorney check the form for accuracy. At the low end of the Commission's range, the total number of hours to prepare and submit the data for industry is 17,269 hours (1,801 + 243 + 15,225). At the high end of the Commission's range, the total number of hours is 34,376 hours (3,602 + 324 + 30,450). Multiplying these figures by the hourly wage of \$35

per hour yields a range of \$604,415 to \$1,203,160 for the total cost to industry of producing the data.

the cost to the Commission to review the submitted data and publish the U.S. International Telecommunications Traffic and Revenue Data report in 2015, the last year the Commission released a public report, was approximately \$112,076.⁵ Thus, the Commission estimates the overall annual cost of collecting and publishing the Traffic and Revenue Reports to be in the range of \$716,491 to \$1,315,236.

4. The Commission also finds, given the increasing level of competition on most U.S.-international routes, that the benefits of the reports have so diminished that they no longer outweigh those costs. When the requirement for carriers to file Traffic and Revenue Reports was established, there was little competition in the international telecommunications markets and the reports were an important tool for the Commission to monitor the markets. The data from the reports were instrumental in developing Commission policies and actions that protect U.S. carriers and consumers from anticompetitive conduct and high settlement rates, including the development of the benchmarks policy.

5. Circumstances have changed substantially over the years, however. As the Commission discussed in the *Section 43.62 NPRM*, 82 FR 18090, April 17, 2017, since the implementation of the World Trade Organization (WTO) Basic Telecom Agreement 20 years ago⁶ and the establishment of the Commission's benchmarks policy, the international telecommunications sector has become much more competitive on both the U.S. and foreign ends. The Commission explained that "[t]his is due to relaxed government regulations, entry by new carriers, entry by existing incumbents into other countries' markets, technological developments that have enhanced ease of entry, and, perhaps most significantly for the future, the

per hour yields a range of \$604,415 to \$1,203,160 for the total cost to industry of producing the data.

⁵ 2014 Traffic and Revenue Report, https://apps.fcc.gov/edocs_public/attachmatch/DOC-340121A1.pdf and http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0701/DOC-340121A2.xlsx. In the *Section 43.62 NPRM*, the Commission estimated that staff would spend 2,218 hours reviewing and publishing the data at a total cost of at least \$112,076.

⁶ The results of the WTO's basic telecommunications services negotiations are incorporated into the General Agreement on Trade in Services (GATS) by the Fourth Protocol to the GATS. See World Trade Organization, Fourth Protocol to the General Agreement on Trade in Services, 36 I.L.M. 366 (1997) (Apr. 30, 1996), https://www.wto.org/english/tratop_e/serv_e/4prote_e.htm. The Commission refers to these results, as well as the basic obligations contained in the GATS, as the "WTO Basic Telecom Agreement."

development of VoIP-based alternatives to traditional international switched services, such as Skype, FaceTime, Viber, or WhatsApp.”

6. For the sector as a whole, U.S.-international average settlement rates and average ICS revenue per minute have dropped dramatically. Average settlement rates paid out by U.S. carriers have decreased from \$0.18 per minute in 2000 to \$0.03 per minute in 2014, an 83 percent drop. Another indicator that competition has driven down rates is that settlement rates to most foreign points are well below the benchmark rate established for that country, with the majority of minutes of calling on highly competitive routes with low settlement rates. Seventy-five percent of routes were below benchmark in 2014, a rise from three percent in 1997, and these constituted 98.7 percent of total minutes of international ICS calling from the United States.⁷ In 2014, 75 percent of all minutes were on routes that had settlement rates below \$0.02. While only 30 percent of routes were below the settlement rate of \$0.05 per minute in 2014, these constituted 88 percent of the total minutes. Average facilities-based ICS revenue per minute, which is a general measure of international calling prices, has decreased from \$0.47 per minute in 2000 to \$0.04 per minute in 2014, indicating a drop of 91 percent in the price to consumers for international calling.

7. The Traffic and Revenue Reports are also no longer comprehensive, given the nature of the international telecommunications sector today. Consequently, the data reveal only a portion of the overall picture of international communications, a portion that is likely to grow smaller over time as more consumers use non-interconnected VoIP and other alternative technologies that are not included as part of the traffic settled with foreign carriers and therefore are not included in the Traffic and Revenue Reports. The Commission can use commercially available data to obtain a more complete picture of the international communications marketplace, including non-

interconnected VoIP.⁸ For these reasons and in light of the alternatives available when and where issues may arise, the Commission concludes that the Traffic and Revenue Reports are no longer beneficial or necessary, and eliminates this annual filing requirement from the rules.

8. The Commission recognizes, however, that a number of routes are still not competitive and have not seen the reduction in settlement rates or calling rates that come from competition.⁹ As the Commission noted in the *Section 43.62 NPRM*, 48 routes have settlement rates above their respective benchmark rates. These routes account for only about one percent of the total minutes terminated on fixed networks, but represent almost 21 percent of the total fixed U.S. settlement payouts worldwide. In the future, should any issue arise, such as potential anticompetitive conduct on these or other routes, the Commission has broad authority to investigate such issues.

9. The Commission has an established process for identifying and addressing issues of alleged anticompetitive conduct on U.S.-international routes, including the increase of settlement rates above the appropriate benchmark rate for the route. That process provides an opportunity for U.S. carriers to file complaints or petitions, as well as for the Commission to act on its own motion. As part of that process, the Commission has used the annual traffic and revenue data, requested data from carriers, and sought public comment on allegations of anticompetitive conduct. In the *Section 43.62 NPRM*, the Commission specifically sought comment on how to obtain data and information to address instances of anticompetitive conduct on a U.S.-international route that adversely affect U.S. consumers or U.S. carriers if the annual traffic and revenue reports are eliminated.

10. The Commission agrees with commenters that it can continue to use targeted data requests to international service providers when necessary in combination with data from third party commercial sources, which is a less burdensome but effective way of

achieving its statutory objectives. Through these means, the Commission should be able to obtain any necessary information for merger review and investigations of possible anticompetitive conduct on U.S.-international routes. However, to ensure this targeted data request process is efficient, the Commission must maintain a list of the particular routes that entities serve. This list of routes should be readily available to a service provider as each provider negotiates a contract in the normal course of business. Additionally, the Commission is not aware of this information being otherwise available from third party commercial sources and providing this information will be less burdensome than filing the annual Traffic and Revenue Reports. This list will provide the Commission with information, for example, to identify the service providers from which it may need to seek information on any anticompetitive issue that arises in a particular region or on a particular route. Importantly, this list will also inform the Commission as to which service providers should not be subject to a data request.

11. Consequently, the Commission will require international facilities-based service providers to submit and maintain, a list of routes on which they have direct termination arrangements with a foreign carrier. Routes on which the U.S. carrier has no arrangement with a carrier in the destination market and instead provides service to that market through arrangements with third party carriers in intermediate countries would not be included on the list. The Commission directs the International Bureau to establish for the Commission the specific process for the filing of the lists. Service providers with existing direct termination arrangements must submit their list within thirty (30) days after the International Bureau releases a public notice with the procedures for filing. Thereafter, service providers must update their lists within thirty (30) days after they add a termination arrangement for a new foreign destination or discontinue arrangements with a previously listed destination. A new service provider or one without existing direct termination arrangements must file its list within thirty (30) days of entering into a direct termination arrangements with a foreign carrier.

12. The Commission will treat the lists as not routinely available for public inspection, as AT&T requests. The Commission finds that the routine public disclosure of these carrier lists could cause competitive harm to carriers and may contravene established Commission policy. In a recent *ex parte*

⁷ Total settlement payments above each country's benchmark rate (counting only payments for that portion of the settlement rate above the benchmark, if any) were \$211 million. The highest benchmark of \$0.23 per minute was applied to new countries and routes for purposes of this analysis. The benchmarks do not necessarily reflect the current cost of termination, and individual routes may have lower or higher costs of termination. The cost of termination has fallen significantly since 1997, and thus the benchmark rates for many routes are probably higher than the actual cost of termination of international ICS calls.

⁸ For example, an enterprise license for TeleGeography Report and Database is approximately \$25,000. TeleGeography, <http://www2.telegeography.com/telegeography-report-and-database>. As opposed to the analysis of the social benefits of Circuit Capacity Reports as a public good, the Commission finds such benefits associated with the Traffic and Revenue Reports to be relatively minimal.

⁹ Consistent with economic theory and Commission precedent, the Commission treats each international route as a separate market.

filing, AT&T states that it “treats information concerning the U.S. international routes that are served through direct and indirect termination arrangements as confidential information that is not customarily disclosed to the public.” AT&T contends that public disclosure of this information would allow the identification of the specific routes served by each U.S. carrier via indirect termination arrangements, which would not support longstanding Commission policy fostering the least cost routing of U.S. international traffic to reduce high foreign termination rates.” The Commission agrees and concludes, consistent with its decision in 2013, that it should not routinely make publicly available route-specific data, as it could enable foreign carriers “to track and restrict hubbed traffic” and “doing so might frustrate U.S. policy in favor of least cost routing and lower consumer rates.” Although in the past, the Commission has issued Orders that included data from the Traffic and Revenue Reports regarding which U.S. carriers offered facilities-based service on a particular international route, those Orders did not disclose whether the particular carrier’s facilities-based service was provided on a direct or indirect basis. Nor is the Commission aware of information regarding indirect routing being publicly available through other sources. The Commission adopts a new provision in § 0.457(d) of the rules to include the lists and updates of U.S.-international routes for which a carrier has an arrangement with a foreign carrier for direct termination in the foreign destination as records not routinely available for public inspection. This approach will allow the Commission to send letters of inquiry in a docket or proceeding to investigate a potential anticompetitive issue on a particular U.S.-international route.

13. Based on the record and considering changing market conditions, the Commission finds that the Traffic and Revenue Reports are no longer necessary. The Commission anticipates that, in combination with access to commercially available international telecommunications market data, the use of targeted information requests will allow the Commission to continue to fulfill its statutory obligations and protect U.S. interests. Such information requests will be targeted for specific situations,¹⁰ and

¹⁰ In individual cases where merger review analysis and monitoring and enforcement of the benchmarks require data, the Commission can obtain this data from targeted data requests to the parties and other industry stakeholders. In addition, the traffic and revenue data are no longer necessary

could include any information previously reported for the Traffic and Revenue Report—*e.g.*, minutes completed on foreign networks; settlement payouts for call completion on foreign networks; foreign-billed minutes; and, foreign-billed settlement receipts. If a service provider requests confidential treatment of its response, such a request should be made in accordance with § 0.459 of the Commission’s rules.

B. Circuit Capacity Reports

14. Based on the record in this proceeding, the Commission finds it is in the public interest to retain the circuit capacity data collection with some modifications to streamline and reduce the burdens on providers. The Commission concludes that the identified social benefits of the Circuit Capacity Reports filed by providers significantly exceed the estimated social cost of producing these reports.¹¹ The data from the Circuit Capacity Reports are necessary for the Commission to fulfill its statutory obligations and will continue to play a vital public interest role for other federal agencies. The Commission finds that it is able to streamline this information collection, and will no longer require carriers to file world total circuit data for terrestrial and satellite facilities. The Commission deletes § 43.62, which contains both annual Traffic and Revenue Reports and the Circuit Capacity Reports, and places the revised Circuit Capacity Reports in § 43.82.

15. As the Commission did with the Traffic and Revenue Reports, it conducts the cost-benefit analysis of the Circuit Capacity Reports using a “breakeven analysis.” Based on that review, the Commission concludes that the social value of the social benefits of the Circuit Capacity Reports filed by providers exceeds the estimated social cost of producing the reports. The *Section 43.62 NPRM* estimated that industry as a whole spent 906 hours preparing and submitting the 2015 Circuit Capacity Reports. The Commission finds, however, that it can streamline the circuit capacity data collection, which will decrease the cost to both industry and the Commission without jeopardizing the Commission’s ability to fulfill its statutory mandates. The Commission will eliminate the

because the Commission can rely on commercial data sources and targeted data requests for any internal data analysis that it needs to perform.

¹¹ The social benefit is the total benefit to society from providing the reports, and the social cost is the total cost to society of producing them, including the private costs to industry and the Commission of collecting the data and producing a report.

requirement to report terrestrial and satellite circuits which will reduce burdens on industry without impairing the Commission’s ability to fulfill its statutory duties. The Commission also finds that going forward the International Bureau can cease preparing and releasing public reports analyzing the data provided in the Circuit Capacity Reports, but should continue to maintain the data and publicly release aggregated data on a timely basis. Based on the record, the Commission estimates that with these changes the annual economic cost for filing entities to compile and submit circuit capacity data to the Commission would be between \$30,065 and \$37,605,¹² and in the *Section 43.62 NPRM* the Commission estimated the annual economic cost to the Commission for reviewing the data and producing the public report to be approximately \$22,000, which will decrease going forward because the Commission will no longer publish an annual public report.¹³ Thus, the total annual economic cost of the reporting requirement, including the overestimate for producing the annual report using Commission resources of \$22,280 per year and the resources expended by the filing entities valued at \$37,305 per year, equals no more than \$59,885.

16. The Commission finds that the benefits to the Commission in collecting this data justify the estimated costs of the collection. The Commission currently uses the circuit capacity data

¹² The *Section 43.62 NPRM* estimated that, in total, the industry spent 906 hours preparing and submitting circuit capacity data for the 2015 *U.S. International Circuit Capacity Data report*. This includes 30 hours for preparing and filing world total terrestrial and/or satellite circuits, a requirement which the Commission has eliminated in this Report and Order, and 17 hours for preparing and filing the registration form by 17 filing entities that only submitted reports for the terrestrial and/or satellite circuits, a requirement which the Commission has similarly eliminated. Subtracting 47 hours—the amount of time by which the reporting burden is reduced under the Commission’s revised rules—from the estimated total of 906 hours yields a revised total of 859 hours. The Commission used this as the lower range for total annual variable cost. Adjusting these figures upward to account for AT&T’s and Verizon’s reported burdens and adding the results to the estimated total of 859 hours yields a revised industry total of 1,074.4 hours annually for the upper end of the range. The estimated total variable cost per year for filing entities is derived by multiplying the total hours by \$35 per hour, the estimated in-house hourly wage for filing entities cited in the Commission’s supporting statement on Part 43.62 annual reporting requirements. This calculation produces a range of annual total variable cost for all entities filing circuit capacity data with the Commission from \$30,065 to \$37,605.

¹³ The *Section 43.62 NPRM* estimates that Commission staff spends 372 hours annually reviewing and publishing the annual circuit capacity report for a total variable cost of \$22,280.

for such purposes as analyzing international transport markets in merger reviews.¹⁴ More importantly, these data are essential for the Commission's national security and public safety responsibilities in regulating communications, an important linchpin of the Commission's statutory authority.¹⁵ A number of commenters questioned the usefulness of this information for national security purposes, arguing that the Commission and the national security agencies already know the owners, capacity, and locations of the submarine cables through the licensing process and that by the time the public reports are released the data are no longer useful. However, submarine cables are critical infrastructure and the circuit capacity data are important for the Commission's contributions to the national security and defense of the United States. More than 95 percent of all U.S.-international voice, data, and Internet traffic is carried over submarine cables, including civilian and military U.S. Government traffic. Submarine cables are used for critical government and business operations, communications, financial transactions, logistics, and transportation. Threats to submarine cables include deliberate attacks, accidents and natural disasters. To maintain the integrity of this critical part of the communications infrastructure, information about capacity holdings, which are not static but change over time, is central to fulfilling the Commission's responsibilities. The Commission uses the data, for example, to have a complete understanding of the ownership and use of submarine cable capacity and to assist in the protection, restoration, and resiliency of the infrastructure during national security

¹⁴ The Commission focuses on submarine cable facilities when analyzing the international transport market.

¹⁵ The Communications Act of 1934 established the Commission "[f]or the purpose of regulating interstate and foreign commerce in communication by wire and radio . . . for the purpose of the national defense . . ." 47 U.S.C. 151 (charging the Commission with regulating communications by wire and radio for, among other things, the national defense). The Cable Landing License Act of 1921 and Executive Order 10530 also require that the Commission consider national security concerns in its licensing and regulation of cable landing licensees. 47 U.S.C. 35. Exec. Order No. 10530, 19 FR 2709, May 10, 1954 (delegating the President's authority to license submarine cables to the Commission). While the Commission coordinates as necessary and appropriate with the relevant Executive Branch agencies and accords deference to their expertise in identifying and interpreting issues of concern related to national security and other issues, the Commission makes independent decisions on matters within its responsibilities, which can be based in part on concerns raised by the Executive Branch agencies.

or public safety emergencies, such as hurricanes. The Department of Homeland Security (DHS) also finds this information to be critical to its national and homeland security functions. It states that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes. Although the Commission obtains the ownership and location of individual cables through the licensing process, distribution of a cable's capacity among providers is not required to be reported under the current submarine cable licensing rules and is provided only annually through the Circuit Capacity Reports. Further, the Commission's licensing rules do not require an applicant to include the entities that have acquired capacity on the cable through an Indefeasible Right of Use (IRU) or Inter-Carrier Lease (ICL). While in the past the circuit capacity data often have been dated by the time the Commission's public reports have been released, the Commission has had access to the data when filed and has used those data before the public report is released. In addition, going forward the Commission intends to make the data available to the public on a timelier basis by releasing the aggregate data without any analysis.¹⁶ The Commission finds that these benefits of the Circuit Capacity Reports, although difficult to monetize, clearly outweigh the minimal costs to industry and the Commission.

17. Based on the Commission's review, there are no alternative reliable third party commercial sources for the reported data.¹⁷ Although some sources collect general capacity information

¹⁶ An ancillary benefit of releasing aggregated circuit capacity data (and disaggregated data as appropriate) to the public is the benefit that companies may also rely on the data, at no cost, for example, to advise potential entrants about the likely effects on market concentration and competitive effects if market entry is attempted. In addition, the circuit capacity data support theoretical and empirical research on long-term trends in the international telecommunications industry and help analysts detect structural changes that may foreshadow future regulatory change, including but not limited to specific deregulatory reforms and rule revisions that encourage or protect competition. The Commission anticipates some long-term social benefits from research on industry evolution supported by the availability of the circuit capacity data to telecommunications industry analysts and academic researchers.

¹⁷ Although certain cable capacity data may be available through other sources, those sources are not as reliable as information that has been submitted to a federal agency and verified by officials in the company. As for the capacity holder data, there are no other sources for that information. Letter from Emily Early, Director (Acting), DHS NPPD Strategy, Policy, and Plans, Office of Cyber and Infrastructure Analysis, National Protection and Program Directorate, DHS, to Marlene Dortch, Secretary, FCC (Sept. 21, 2017) at 2.

from cable owners,¹⁸ neither the Commission nor DHS has found any alternative sources for capacity holder data. For example, TeleGeography's submarine cable reports include capacity information, but the data are not verified by company officials¹⁹ and do not include capacity holder data. The Commission finds that the social benefits of collecting the data for the Commission's analysis of international transport markets and contributions to the national security, defense, and public safety exceed the costs of producing, collecting, and analyzing the circuit capacity data.²⁰ Accordingly, the Commission retains the collection of this data.

18. The Commission rejects arguments that it does not have authority to collect circuit capacity data. The Commission has authority to grant—and condition—authorizations and licenses. Specifically, section 214 of the Communications Act gives the Commission authority to "attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require." The Cable Landing License Act of 1921 and Executive Order 10530 authorize the Commission to condition licenses "upon such terms as are necessary to assure just and reasonable rates and service in the operation and use of the cables so licensed." The requirement for common carriers to file circuit data dates back to the 1970s, and was extended to cable landing licensees in 2013.²¹

¹⁸ The data on submarine cable capacity by region that the Commission collects and makes available provide potential entrants or new investors with an accurate industry overview showing where cable capacity connecting the United States to foreign points is presently deployed. The data provide potential new entrants, investors, and other small business entities with business planning data for assessing potential market demand.

¹⁹ An officer of the Filing Entity must certify the accuracy and completeness of the Filing Entity's § 43.62 information.

²⁰ In addition, the Circuit Capacity Reports provide capacity and ownership data useful in the Commission's review of proposed mergers of international submarine cable operators. The data in the Circuit Capacity Reports filed by providers, for example, will facilitate the calculation of potential post-merger market shares that are useful in assessing the possible competitive effects of a merger of submarine cable operators. Additional benefits provided by the Circuit Capacity Reports include the timely sharing of data with other U.S. government entities for public safety and other purposes. The data collected by the Commission that are not business-sensitive will continue to be made publicly available and downloadable to all users at no charge. See 47 CFR 43.62(c)(2).

²¹ In requiring cable landing licensees to file circuit data for submarine cables, the Commission explained in the Part 43 Second Report and Order that:

19. Although the Commission retains the Circuit Capacity Reports, it finds that there are ways in which it can further streamline the data collection to reduce the burdens on industry and the Commission while continuing to collect the data necessary to fulfill its statutory obligations. Commenters argue that the Commission should eliminate the requirement for filing terrestrial and satellite circuit data because the data serve no purpose other than for administering regulatory fees and the requirement is duplicative of data that carriers must file in the Commission's regulatory fee process. The Commission only uses this circuit data for regulatory fee purposes,²² and revises the rules to discontinue collecting terrestrial and satellite circuit information in the Circuit Capacity Reports. The Commission has a pending proceeding on the methodology for assessing regulatory fees for terrestrial and satellite international bearer circuits in a more efficient and less burdensome manner.

20. The Commission declines, however, to eliminate the required breakdown of net capacity by cable ownership, as suggested by Verizon. Cable landing licensees and common carriers (collectively, capacity holders) are currently required to break down the capacity that they hold on a cable by whether it is held as ownership in the cable, an IRU, or an ICL. This information is not available from other sources. The Commission finds that this breakdown of how the capacity is held is necessary for analyses of critical

The Commission found that it has authority to require the filing of such information from these entities. The Commission's authority to require the filing of international circuit data by common carriers is well established and these carriers currently file circuit data pursuant to § 43.82. The Commission finds it also has authority under the Cable Landing License Act as well as the Communications Act to require cable landing licensees that are not common carriers to report their capacity. As discussed in the *Further Notice*, the Commission licenses submarine cables and associated cable landing stations located in the United States pursuant to the Cable Landing License Act. The provisions of the Cable Landing License Act do not distinguish between common carriage and non-common carriage of services over licensed cables. As the Commission discussed in the *Further Notice*, the submarine cable capacity data that the Commission will collect will help it to make informed decision as to its policies and procedures developed to implement the requirements of the Cable Landing License Act. This includes, for example, the adequacy of protection for competition and other matters.

Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules, IB Docket No. 04-112, Second Report and Order, 78 FR 15615, March 12, 2013.

²² The Commission included that requirement to report terrestrial and satellite circuits solely for purposes of administering regulatory fees.

submarine cable infrastructure and declines to make this change. However, the Commission can reduce the burden on the capacity holders, and does so here, by no longer requiring capacity holders to determine whether the entity from which they acquired a lease or to whom they sell a lease is another capacity holder or similar entity.²³ Accordingly, the Commission directs the International Bureau to revise the Filing Manual to reflect this change.

21. The Commission also declines to eliminate the requirement for submarine cable operators to report the planned capacity of the cable. Cable operators are required to report the intended capacity of the cable two years out from the reporting date based on the planned upgrades to the cable. The Commission finds that the planned capacity information is necessary for analyses of critical submarine cable infrastructure and thus declines to make this change. Similarly, the Commission will continue to require cable landing licensees to report the capacity they hold on all submarines cables on which they hold capacity, and not just on those on which they are licensees. Many cable landing licensees hold capacity on cables on which they are not licensees. This information is necessary for analyses of critical submarine cable infrastructure and thus the Commission declines to make this change.²⁴

22. The Commission does make certain changes recommended by the North American Submarine Cable Association, DOCOMO Pacific, Inc., Globe Telecom, Inc. GTI Corporation, and Level 3 Communications, LLC (collectively, ICIO) to improve the current reporting to encourage more accurate data and to reflect changes in the submarine cable market. First, ICIO argues that allowing only one licensee to file the Cable Capacity Report for a consortium cable requires licensees to share information about their capacity and planned upgrades that may be competitively sensitive. The Commission agrees that the consortium cable reporting requirement raises issues requiring modification of the rules. The Commission therefore removes the requirement in the rules that only one licensee file the capacity

²³ Currently each capacity holder nets out IRUs and ICLs sold to U.S. cable landing licensees and U.S. common carriers, which file their own reports, but does not net out capacity sold to other capacity holders, which requires it to determine whether the entity to which it sold capacity is required to file its own capacity holders report.

²⁴ By continuing to require both cable landing licensees and common carriers to report their capacity on all cables the Commission will continue to receive data from the majority of holders of capacity on the cables.

for each submarine cable from the rule, and directs the International Bureau to consult with stakeholders on appropriate changes to the Filing Manual to allow for more than one licensee to file a cable operator report for a submarine cable if appropriate. Second, ICIO argues that the capacity holders report fails to consider how capacity is sold in the market today. It states that in addition to sales through IRUs and ICLs, capacity is now sold on a fiber pair or spectrum basis. The Commission recognizes that the way that capacity is provisioned and sold is constantly changing, but the Commission requires disaggregated capacity holder information about submarine cables capacity. The Commission directs the International Bureau to consult with stakeholders and to review and revise as needed the categories of ownership interests reported in the cable capacity holder reports to reflect changes in industry's provisioning of capacity, while ensuring that the capacity holder data are accurately captured by the reporting requirements.

23. In the *Section 43.62 NPRM*, the Commission proposed to change the confidentiality rule for circuit capacity to clarify that requests for confidential treatment will be consistent with § 0.459 of the Commission's rules and sought comment on the proposal. There were no comments filed on the issue. The Commission finds that it is appropriate to align the rules regarding requests for confidential treatment of information filed in the Circuit Capacity Reports with existing Commission rules on the matter. As such, the Commission adopts the proposal to require that requests for confidential treatment must be consistent with § 0.459 of the Commission's rules.

24. Finally, the Commission finds it unnecessary to amend its systems and processes to enable certifying officers to review and certify the report in a uniform, printable and recordable manner, as suggested by Verizon. The current system already allows the printing of a filing summary that can be reviewed by the filing entity prior to filing.²⁵

C. Transition Issues

25. To prevent the providers of international telecommunications

²⁵ The online system allows a filer to print out a "filing summary," which can be saved as a PDF, from an Internet browser. A filer can click on "filing summary" in the upper right-hand corner of any page of the online system. The "filing summary" also includes links to the data templates submitted by the filer. As the filer progresses through the filing, the "filing summary" is updated automatically.

services from incurring potentially unnecessary expenses, on May 1, 2017, the International Bureau granted a temporary waiver of the Traffic and Revenue reporting requirements until 60 days after release of a Commission Order regarding the reporting requirements. The Commission has decided to eliminate the Traffic and Revenue Reports. Consequently, in the event that the actions taken herein to eliminate permanently this information collection are not effective within 60 days of the release of this Report and Order, the Commission finds good cause to extend the waiver for filing the 2016 international traffic and revenue data, which would have been due on July 31, 2017, until the deletion of this requirement is effective.

26. The Commission adopts a rule requiring each international facilities-based service provider to file with the Commission a list of the routes on which it has direct termination arrangements with a foreign carrier for that route. Service providers with existing direct termination arrangements must submit their lists within thirty (30) days after the International Bureau releases a public notice with the procedures for filing. The lists shall be filed electronically in accordance with instructions to be issued by the International Bureau.

27. Finally, the Commission directs the International Bureau to revise the Filing Manual to implement the modifications to the circuit capacity reporting requirements discussed above. The International Bureau shall issue a public notice seeking comment on the revised Filing Manual, and the Commission delegates authority to the International Bureau, as needed, to delay the March 31, 2018 filing date for the Circuit Capacity Reports (for the data as of December 31, 2017) until the issuance of a revised Filing Manual.

28. In this Report and Order, the Commission eliminates the requirement to file annual Traffic and Revenue Reports. In its place, the Commission will rely on targeted data collections and, to continue to meet its statutory objectives, the Commission requires each international facilities-based service provider to maintain and file with the Commission a list of routes on which it has direct termination arrangements with a foreign carrier for that route. The Commission retains its circuit capacity reporting requirements but removes the requirement to file terrestrial and satellite circuit data. The Commission finds that these actions are in the public interest and will minimize costs while allowing the Commission to

fulfill its statutory obligations and protect U.S. interests.

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

30. *It is ordered* that, pursuant to sections 1, 4(i), 4(j), 11, 201–205, 214, 219–220, 303(r), 309, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 214, 219–220, 303(r), 309, and 403, the Cable Landing License Act of 1921, 47 U.S.C. 34–39, and 3 U.S.C. 301, and the Freedom of Information Act, 5 U.S.C. 552, as amended, this Report and Order is *adopted*.

31. *It is further ordered* that parts 0, 1, 43, and 63 of the Commission's rules are *amended*.

32. *It is further ordered* that the Report and Order *shall be* effective December 21, 2017, except those provisions that contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act *will become effective* after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

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

34. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to

the Chief Counsel for Advocacy of the Small Business Administration.

35. *It is further ordered* that this proceeding, IB Docket No. 17–55, is *hereby terminated*.

D. Final Regulatory Flexibility Act Analysis

36. The Report and Order reforms the international services reporting requirements set forth in § 43.62 of the Commission's rules. Specifically, it eliminates the annual Traffic and Revenue Reports. In its place, the Commission will rely on commercially available data, along with targeted data collections when necessary. Through these means, the Commission should be able to obtain any necessary information for merger review and investigations of possible anticompetitive conduct on U.S.-international routes. To ensure that the Commission has the necessary information to meet its statutory obligations going forward, international facilities-based service providers are required to submit and maintain a list of routes on which they have direct termination arrangements with a foreign carrier for that route. Routes on which the U.S. carrier has no arrangement with a carrier in the destination market and instead provides service to that market through arrangements with third party carriers in intermediate countries would not be included on the list. Service providers with existing direct termination arrangements will submit their list within thirty (30) days after the International Bureau releases a public notice with the procedures for filing. Thereafter, service providers must update their lists within thirty (30) days after they add termination arrangements with a new foreign destination or discontinue arrangements with a previously listed destination. A new service provider or one without existing direct termination arrangements must file its list within thirty (30) days of entering into a direct termination arrangements with a foreign carrier. The Commission will treat the lists as not routinely available for public inspection.

37. Additionally, the Commission further streamlines the Circuit Capacity Reports by eliminating the reporting of terrestrial and satellite circuits, but will continue to require reporting of submarine cable capacity data because these data are essential for the Commission's national security and public safety responsibilities in regulating communications. The reforms adopted in the Report and Order significantly minimize the costs and burdens associated with the data collections by retaining annual

reporting requirements for only those collections necessary to serve the public interest and for the Commission to fulfill its statutory obligations and protect U.S. interests.

38. No comments were filed specifically regarding the IRFA. Nonetheless, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and reduced the compliance burden for all entities, including small entities, in order to reduce the economic impact of the rules on such entities.

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

40. The policies and rules adopted in the Report and Order apply to entities providing international common carrier services pursuant to section 214 of the Communications Act of 1934 (the "Act"); entities engaged in providing Voice over Internet Protocol (VoIP) service connected to the public switched telephone network (PSTN) between the United States and any foreign point; entities that operate a telecommunications "spot market" and carry international traffic; entities providing domestic or international wireless common carrier services under section 309 of the Act; entities providing common carrier satellite services under section 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act of 1921 and Executive Order No. 10530. The Commission has not developed a small business size standard directed specifically toward these entities. As described below, such entities fit within larger categories for which the SBA has developed size standards.

41. These policies and requirements apply to a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

- a. Facilities-based Carriers.
- b. IMTS Resale Providers.
- c. Wireless Carriers and Service Providers.
- d. Wireless Telecommunications Carriers (except Satellite).
- e. Wireless Communications Services.
- f. Providers of Interconnected VoIP Services.
- g. Spot Market Operators.
- h. Providers of International Telecommunications Transmission Facilities.
- i. Satellite Telecommunications Providers.

j. Operators of Common Carrier/Non-Common Carrier Undersea Cable Systems.

k. Incumbent Local Exchange Carriers.

42. In order to reduce the costs and burdens on carriers, including small entities, the Commission reforms its international reporting requirements. As proposed in the NPRM the Commission eliminates the requirement to file annual Traffic and Revenue Reports. The Commission sought comment on alternative means of obtaining data on international termination agreements, and determined that instead of the annual reports, it would rely on targeted data collections when necessary, which would be less burdensome for small businesses. All commenters in the proceeding support the elimination of the Traffic and Revenue Reports. Commenters also support requesting information on a targeted as needed basis. International facilities-based service providers will be required to provide a list of routes on which they have direct termination arrangements. The list of routes will provide the Commission with information to identify carriers from which it may need to seek information on any issue that arises in a region or on a particular route. Service providers must update their information within thirty (30) days as they add termination arrangements with a new destination foreign country or discontinue arrangements with a previously listed country. Maintaining this minimal list is significantly less burdensome than filing an annual traffic report as this information should be readily available to carriers in the normal course of business. ICIO supports a requirement obligating carriers to identify the services they provide and the routes they service. Similarly, AT&T notes that they would not object to providing the Commission, on a confidential basis, a list of routes on which it has termination arrangements with a carrier in the destination foreign country. The Commission will treat the lists as not routinely available for public inspection, as AT&T requests.

43. The Commission retains the Circuit Capacity Reports for the submarine cable data but reduces the burdens of the Circuit Capacity Reports by eliminating the reporting of terrestrial and satellite circuits. The Commission also considered eliminating the required breakdown of net capacity by cable ownership, but found that this breakdown is necessary for analyses of critical submarine cable infrastructure and declined to make this change; the Commission did, however, reduce the burden on capacity holders

by no longer requiring them to determine whether the entity from which they acquired a lease or to whom they sold a lease is another reporting entity. The Commission also directed the International Bureau to consult with stakeholders and review and revise as needed the categories of ownership interests reported in the cable capacity reports, to ensure that the cable capacity data are accurately captured by the reporting requirements. Thus, while the Commission retains the Circuit Capacity Reports, it will further streamline the reports to minimize the burdens associated with the data collection by removing the requirement to file terrestrial and satellite circuit data. This will significantly reduce the cost, time, and burden associated with the circuit capacity data collection. Overall, with the adoption of these changes to the international reporting requirements the Commission minimizes the economic impact on carriers, including small entities, by eliminating unnecessary data collections and retaining annual reporting requirements for only those collections necessary to serve the public interest.

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

List of Subjects

47 CFR Part 0

Freedom of information, Reporting and recordkeeping requirements.

47 CFR Part 1

Communications common carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Parts 43 and 63

Communications common carriers, Radio, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 parts 0, 1, 43, and 63 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Section 0.457 is amended by adding paragraph (d)(1)(xi) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(d) * * *
(1) * * *

(xi) Lists and updates of U.S.-international routes for which a carrier has an arrangement with a foreign carrier for direct termination in the foreign destination provided pursuant to § 63.22(h) of this chapter.

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 34–39, 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455.

■ 4. Section 1.767 is amended by redesignating paragraphs (g)(13) through (15) as paragraphs (g)(14) through (16) and adding new paragraph (g)(13) to read as follows:

§ 1.767 Cable landing licenses.

* * * * *

(g) * * *

(13) The licensee shall file annual international circuit capacity reports as required by § 43.82 of this chapter.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

■ 5. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996; Pub. L. 104–104, sec. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220, as amended; Cable Landing License Act of 1921, 47 U.S.C. 35–39.

■ 6. The heading of part 43 is revised to read as set forth above.

§ 43.62 [Removed and Reserved]

■ 7. Remove and reserve § 43.62.

■ 8. Section 43.82 is added to read as follows:

§ 43.82 Circuit capacity reports.

(a) *International submarine cable capacity.* Not later than March 31 of each year:

(1) The licensee(s) of a submarine cable between the United States and any foreign point shall file a report showing the capacity of the submarine cable as of December 31 of the preceding calendar year. The licensee(s) shall also file a report showing the planned capacity of the submarine cable (the intended capacity of the submarine cable two years from December 31 of the preceding calendar year).

(2) Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables between the United States and any foreign point as of December 31 of the preceding calendar year.

Note to Paragraph (a): United States is defined in Section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(b) *Registration Form.* A Registration Form, containing information about the filer, such as address, phone number, email address, etc., shall be filed with each report. The Registration Form shall include a certification enabling the filer to check a box to indicate that the filer requests that its circuit capacity data be treated as confidential consistent with Section 0.459(a)(4) of the Commission’s rules.

(c) *Filing Manual.* Authority is delegated to the Chief of the International Bureau to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual. The information required under this Section shall be filed electronically in conformance with the instructions and reporting requirements in the Filing Manual.

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

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

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

■ 10. Section 63.10 is amended by revising paragraph (c)(2) to read as follows:

§ 63.10 Regulatory classification of U.S. international carriers.

* * * * *

(c) * * *

(2) File quarterly reports on traffic and revenue within 90 days from the end of each calendar quarter. Such reports shall include the minutes completed on foreign networks; settlement payouts for call completion on foreign networks; foreign-billed minutes; and foreign-billed settlement receipts.

* * * * *

§ 63.21 [Amended]

■ 11. Section 63.21 is amended by removing and reserving paragraph (d).

■ 12. Section 63.22 is amended in paragraph (e) by removing “§ 43.62” and adding in its place “§ 43.82,” by redesignating paragraph (h) as paragraph (i), and adding new paragraph (h) to read as follows:

§ 63.22 Facilities-based international common carriers.

* * * * *

(h) A carrier shall file with the Commission a list of U.S.-international routes for which it has an arrangement with a foreign carrier for direct termination in the foreign destination. The carrier shall notify the Commission within 30 days after it adds a termination arrangement for a new foreign destination or discontinues arrangements with a previously listed destination. The list shall be filed electronically in accordance with instructions from the International Bureau.

* * * * *

[FR Doc. 2017–24983 Filed 11–20–17; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 82, No. 223

Tuesday, November 21, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-1079; Product Identifier 2017-CE-039-AD]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Pilatus Aircraft Limited Model PC-7 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the brakes remaining activated after release of the brake pedal. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 5, 2018.

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

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

For service information identified in this proposed AD, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH-6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: techsupport@pilatus-aircraft.com; Internet: <http://www.pilatus-aircraft.com>. You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

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-2017-1079; 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 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:

Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090; email: doug.rudolph@faa.gov.

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-2017-1079; Product Identifier 2017-CE-039-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 because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also

post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued FOCA AD HB-2017-002, dated October 20, 2017 (referred to after this as "the MCAI"), to correct an unsafe condition for Pilatus Aircraft Limited Model PC-7 airplanes. The MCAI states:

This [FOCA] Airworthiness Directive (AD) is prompted due to a report where the brakes have remained activated after release of the brake pedals before taxing.

Such a condition, if left uncorrected, could lead to an asymmetric braking and subsequent loss of directional control.

In order to correct and control the situation, this [FOCA] AD requires the modification of the brake-pedal interconnecting tie-rod by removing the bonding straps and attachment hardware currently installed on the left and right brake-pedal interconnecting tie-rods.

You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1079.

Related Service Information Under 14 CFR Part 51

Pilatus Aircraft Limited has issued Pilatus Service Bulletin No. 32-028, dated September 20, 2017. The service information describes procedures for removing the left and right brake pedal interconnecting tie rods. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 18 products of U.S. registry. We also estimate that it would take about 2.5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$3,825, or \$212.50 per product.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to small airplanes and domestic business jet transport airplanes to the Director of the Policy and Innovation Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under the DOT Regulatory Policies and

Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Limited: Docket No. FAA-2017-1079; Product Identifier 2017-CE-039-AD.

(a) Comments Due Date

We must receive comments by January 5, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Limited Model PC-7 airplanes, manufacturer serial numbers 101 through 618, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the brakes remaining activated after release of the brake pedal. We are issuing this AD to prevent the brakes from remaining activated after the brake pedal has been released, which could lead to asymmetric braking and subsequent loss of control.

(f) Actions and Compliance

Unless already done, within the next 90 days after the effective date of this AD, modify the brake pedal interconnecting tie rods by removing the bonding straps and attachment hardware following sections A, B, and C of the Accomplishment Instructions in

Pilatus Service Bulletin 32-028, dated September 20, 2017.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090; email: doug.rudolph@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *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, Small Airplane Standards Branch, FAA; or the Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland.

(h) Related Information

Refer to MCAI FOCA AD HB-2017-002, dated October 20, 2017; and Pilatus Service Bulletin No. 32-028, dated September 20, 2017, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1079. For service information related to this AD, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH-6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: techsupport@pilatus-aircraft.com; Internet: <http://www.pilatus-aircraft.com>. You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued in Kansas City, Missouri, on November 9, 2017.

Pat Mullen,

Acting Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2017-25006 Filed 11-20-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-474]

Schedules of Controlled Substances: Temporary Placement of Cyclopropyl Fentanyl into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Proposed amendment; notice of intent.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this notice of intent to publish a temporary order to schedule the synthetic opioid, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide (cyclopropyl fentanyl), into Schedule I. This action is based on a finding by the Administrator that the placement of this synthetic opioid into Schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. When it is issued, the temporary scheduling order will impose the administrative, civil, and criminal sanctions and regulatory controls applicable to Schedule I controlled substances under the Controlled Substances Act on the manufacture, distribution, reverse distribution, possession, importation, exportation, research, and conduct of instructional activities, and chemical analysis of this synthetic opioid.

DATES: November 21, 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: This notice of intent contained in this document is issued pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The Drug Enforcement Administration (DEA) intends to issue a temporary scheduling order (in the form of a temporary amendment) to add cyclopropyl fentanyl to Schedule I under the Controlled Substances Act.¹ The temporary scheduling order will be published in the *Federal Register*, but will not be issued before December 21, 2017.

Legal Authority

Section 201 of the Controlled Substances Act (CSA), 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into Schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the

Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1); 21 CFR part 1308. The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into Schedule I of the CSA.² The Acting Administrator transmitted notice of his intent to place cyclopropyl fentanyl in Schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter dated August 28, 2017. The Assistant Secretary responded to this notice of intent by letter dated September 6, 2017, and advised that based on a review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for cyclopropyl fentanyl. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of cyclopropyl fentanyl into Schedule I of the CSA. Cyclopropyl fentanyl is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for cyclopropyl fentanyl under section 505 of the FDCA, 21 U.S.C. 355.

To find that placing a substance temporarily into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3).

² As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in Schedule I. 21 U.S.C. 811(h)(1). Substances in Schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Cyclopropyl Fentanyl

The recent identification of cyclopropyl fentanyl in drug evidence and the identification of this substance in association with fatal overdose events indicate that this substance is being abused for its opioid properties. No approved medical use has been identified for cyclopropyl fentanyl, nor has it been approved by the FDA for human consumption.

Available data and information for cyclopropyl fentanyl, summarized below, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis is available in its entirety under "Supporting and Related Material" of the public docket for this action at www.regulations.gov under Docket Number DEA-474.

Factor 4. History and Current Pattern of Abuse

The recreational abuse of fentanyl-like substances continues to be a significant concern. These substances are distributed to users, often with unpredictable outcomes. Cyclopropyl fentanyl has been encountered by law enforcement and public health officials beginning as early as May 2017. The DEA is not aware of any laboratory identifications of this substance prior to 2017. Adverse health effects and outcomes of cyclopropyl fentanyl abuse are consistent with those of other opioids and are demonstrated by fatal overdose cases involving this substance.

On October 1, 2014, the DEA implemented STARLiMS (a web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are repositied in STARLiMS. Data from STRIDE and STARLiMS were queried on August 25,

¹ Though DEA has used the term "final order" with respect to temporary scheduling orders in the past, this notice of intent adheres to the statutory language of 21 U.S.C. 811(h), which refers to a "temporary scheduling order." No substantive change is intended.

2017. STARLiMS registered a total of three reports containing cyclopropyl fentanyl from California, Connecticut, and New York. Of these three exhibits, one had a net weight of approximately one kilogram. According to STARLiMS, the first laboratory submission of cyclopropyl fentanyl occurred in Connecticut in June 2017.

The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by other federal, state and local forensic laboratories across the country. NFLIS registered 10 reports containing cyclopropyl fentanyl from state or local forensic laboratories in Oklahoma in July 2017 (query date: August 29, 2017).³

In addition to data recorded in NFLIS and STARLiMS, cyclopropyl fentanyl was identified in drug evidence submitted to state and local forensic laboratories in Georgia and Pennsylvania. Cyclopropyl fentanyl was confirmed in combination with U-47700, another synthetic opioid temporarily controlled in Schedule I of the CSA, in 24 glassine paper packets submitted to a law enforcement forensic laboratory in Pennsylvania.⁴ A law enforcement forensic laboratory in Georgia confirmed⁵ the presence of cyclopropyl fentanyl in counterfeit oxycodone tablets which also contained U-47700. The distribution of cyclopropyl fentanyl in these forms, and in combination with another synthetic opioid, suggests that this substance was marketed as heroin or prescription opioids in the illicit market.

Evidence suggests that the pattern of abuse of fentanyl analogues, including cyclopropyl fentanyl, parallels that of heroin and prescription opioid analgesics. Seizures of cyclopropyl fentanyl have been encountered in powder form, similar to fentanyl and heroin, and in counterfeit prescription opioid products (*i.e.* counterfeit oxycodone tablets). Cyclopropyl fentanyl was also confirmed in toxicology samples from fatal overdose cases.

Factor 5. Scope, Duration and Significance of Abuse

Reports collected by the DEA demonstrate that cyclopropyl fentanyl is

being abused for its opioid properties. Abuse of cyclopropyl fentanyl has resulted in mortality (*see* DEA 3-Factor Analysis for full discussion). The DEA collected post-mortem toxicology and medical examiner reports on 115 confirmed fatalities associated with cyclopropyl fentanyl which occurred in Georgia (1), Maryland (24), Mississippi (1), North Carolina (75), and Wisconsin (14). It is likely that the prevalence of this substance in opioid related emergency room admissions and deaths is underreported as standard immunoassays may not differentiate this fentanyl analogue from fentanyl.

NFLIS and STARLiMS have a total of 13 drug reports in which cyclopropyl fentanyl was identified in drug exhibits submitted to forensic laboratories in 2017 from law enforcement encounters in California, Connecticut, New York, and Oklahoma. In addition to the data collected in these databases, cyclopropyl fentanyl was identified in drug evidence submitted to forensic laboratories in Georgia (counterfeit oxycodone preparation) and Pennsylvania (24 glassine paper packets).

The population likely to abuse cyclopropyl fentanyl overlaps with the population abusing prescription opioid analgesics, heroin, fentanyl and other fentanyl-related substances. This is supported by cyclopropyl fentanyl being identified in powder contained within glassine paper packets and counterfeit prescription opioid products. This is also demonstrated by routes of drug administration and drug use history documented in cyclopropyl fentanyl fatal overdose cases. Because abusers of cyclopropyl fentanyl obtain this substance through unregulated sources, the identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (*i.e.* use a drug for the first time) cyclopropyl fentanyl abuse are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.*, fentanyl, morphine, etc.).

Factor 6. What, if Any, Risk There Is to the Public Health

With no legitimate medical use, cyclopropyl fentanyl has emerged on the illicit drug market and is being misused and abused for its opioid properties. Cyclopropyl fentanyl exhibits pharmacological profiles similar to that of fentanyl and other μ -opioid receptor agonists. The abuse of cyclopropyl fentanyl poses significant adverse health risks when compared to abuse of pharmaceutical preparations of

opioid analgesics, such as morphine and oxycodone. The toxic effects of cyclopropyl fentanyl in humans are demonstrated by overdose fatalities involving this substance.

Based on information received by the DEA, the misuse and abuse of cyclopropyl fentanyl lead to, at least, the same qualitative public health risks as heroin, fentanyl, and other opioid analgesic substances. As with any non-medically approved opioid, the health and safety risks for users are high. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

Cyclopropyl fentanyl has been associated with numerous fatalities. At least 115 confirmed overdose deaths involving cyclopropyl fentanyl abuse have been reported from Georgia (1), Maryland (24), Mississippi (1), North Carolina (75), and Wisconsin (14) in 2017. As the data demonstrate, the potential for fatal and non-fatal overdoses exists for cyclopropyl fentanyl and this substance poses an imminent hazard to the public safety.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information, summarized above, the continued uncontrolled manufacture, distribution, importation, possession, and abuse of cyclopropyl fentanyl pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for cyclopropyl fentanyl in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in Schedule I. Substances in Schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for cyclopropyl fentanyl indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated August 28, 2017, notified the Assistant Secretary of the DEA's intention to temporarily place this substance in Schedule I.

³Data are still being collected for May 2017–August 2017 due to the normal lag period for labs reporting to NFLIS.

⁴Email from Philadelphia Police Department—Office of Forensic Science, to DEA (August 18, 2017 11:09 a.m.) (on file with DEA).

⁵Laboratory report obtained from Division of Forensic Science, Georgia Bureau of Investigation.

Conclusion

This notice of intent initiates a temporary scheduling process and provides the 30-day notice pursuant to section 201(h) of the CSA, 21 U.S.C. 811(h), of DEA's intent to issue a temporary scheduling order. In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule cyclopropyl fentanyl in Schedule I of the CSA, and finds that placement of this synthetic opioid into Schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

The temporary placement of cyclopropyl fentanyl into Schedule I of the CSA will take effect pursuant to a temporary scheduling order, which will not be issued before December 21, 2017. Because the Administrator hereby finds that it is necessary to temporarily place cyclopropyl fentanyl into Schedule I to avoid an imminent hazard to the public safety, the temporary order scheduling this substance will be effective on the date that order is published in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2). It is the intention of the Administrator to issue a temporary scheduling order as soon as possible after the expiration of 30 days from the date of publication of this notice. Upon publication of the temporary order, cyclopropyl fentanyl will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, research, conduct of instructional activities and chemical analysis, and possession of a Schedule I controlled substance.

The CSA sets forth specific criteria for scheduling a drug or other substance. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done "on the record after opportunity for a hearing" conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial

review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in Schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, 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 notice of intent. In the alternative, even assuming that this notice of intent might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Although the DEA believes this notice of intent to issue a temporary scheduling order is not subject to the notice and comment requirements of section 553 of the APA, the DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator will take into consideration any comments submitted by the Assistant Secretary in response to the notice that DEA transmitted to the Assistant Secretary pursuant to section 811(h)(4).

Further, the DEA believes that this temporary scheduling action is not a "rule" as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, 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.

This action 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. 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.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA proposes to amend 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. In § 1308.11, add paragraph (h)(22) to read as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

(22) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopropyl fentanyl) . . . (9845)

* * * * *

Dated: November 13, 2017.

Robert W. Patterson,
Acting Administrator.

[FR Doc. 2017-25077 Filed 11-20-17; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0994]

RIN 1625-AA00

Safety Zone; Spa Creek, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for certain waters of Spa Creek. This action is necessary to provide for the safety of life on navigable waters during a fireworks display in Anne Arundel County at Annapolis, MD, on December 31, 2017. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 28, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0994 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ronald Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR Code of Federal Regulations
 COTP Captain of the Port
 DHS Department of Homeland Security
 FR Federal Register
 NPRM Notice of proposed rulemaking
 § Section
 U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The City of Annapolis, MD, notified the Coast Guard that it will be conducting an aerial fireworks display at 11:55 p.m. on December 31, 2017. The fireworks display will be conducted by Pyrotecnico of New Castle, PA, and launched from a barge located in Spa Creek, in Anne Arundel County at Annapolis, MD. There is no rain date planned for this fireworks display. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port (COTP) has determined that these potential hazards would be a

safety concern for anyone within 133 yards of the fireworks discharge barge.

This rule involves the City of Annapolis New Year’s Eve fireworks display, an event that takes place in Annapolis, MD. A permanent safety zone for fireworks in Annapolis on December 31st is at 33 CFR 165.506. However, due to a change in size and location of the regulated area, the event this year is changed to approximately 700 yards west and its size is reduced to 133 yards. The proposed temporary safety zone will include all waters of Spa Creek within 133 yards of the fireworks barge in approximate position latitude 38°58’33.01” N., longitude 076°28’58.00” W.; the event date remains unchanged.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within 133 yards of the barge before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 11 p.m. on December 31, 2017 through 1 a.m. on January 1, 2018. The safety zone would include all navigable waters of Spa Creek, within 133 yards of the fireworks barge in approximate position latitude 38°58’33.01” N., longitude 076°28’58.00” W., located at Annapolis, MD. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 11:55 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive

Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the duration, time-of-year, and time-of-day of the safety zone. Although vessel traffic would not be able to safely transit around this safety zone, the impact would be for only 2 hours during the late evening when vessel traffic in Spa Creek is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule

involves a safety zone lasting less than 2 hours that would prohibit entry within 133 yards of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0994 to read as follows:

§ 165.T05–0994 Safety Zone; Spa Creek, Annapolis, MD.

(a) *Definitions.* As used in this section:

Captain of the Port means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (b) of this section.

(b) *Location.* The following area is a safety zone: All navigable waters of Spa Creek, within 133 yards of a fireworks barge in approximate position latitude 38°58'33.01" N., longitude 076°28'58.00" W., located at Annapolis, MD. All coordinates refer to North American Datum 83 (NAD 1983).

(c) *Regulations.* The general safety zone regulations found in 33 CFR 165 subpart C apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port (COTP) or designated representative. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the COTP or designated representative. To request permission to transit the area, the COTP and or designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine

Band Radio VHF-FM channel 16 (156.8 MHz). If permission is granted, persons and vessels must comply with the instructions of the COTP or designated representative and proceed as directed while within the zone.

(4) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 11 p.m. on December 31, 2017 through 1 a.m. on January 1, 2018.

Dated: November 15, 2017.

L.P. Harrison, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2017-25125 Filed 11-20-17; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2016-0442; FRL-9971-03-OAR]

RIN 2060-AS92

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry; Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this notice of data availability (NODA) in support of the proposed rule titled “National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry; Residual Risk and Technology Review,” which was published on September 21, 2017. In this document, the EPA is soliciting public comment on information added to the docket (EPA-HQ-OAR-2016-0442) on November 3, 2017.

DATES: Comments must be received on or before December 4, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0442, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1103; fax number: (919) 541-4991; and email address: storey.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information presented in this document is organized as follows:

- I. Background
- II. Purpose of the NODA

I. Background

On September 21, 2017, the EPA proposed amendments to the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry to address the results of the residual risk and technology review (RTR) in accordance with section 112 of the Clean Air Act (CAA). The proposed rule indicated that the EPA found risks due to emissions of air toxics to be acceptable from this source category, and identified no cost-effective controls under the technology review to achieve further emissions reductions. In addition, the proposed rule included amendments to correct and clarify rule testing and monitoring provisions. In support of the proposed rule, the EPA posted over 160 documents to the docket to allow the public to provide comment on the rule and on documents used to develop the rule, in accordance with section 307(d) of the CAA. The subject matter of these docketed items included various correspondence with stakeholders, summary of meeting minutes, and technical memoranda related to the risk assessment and technology review process.

II. Purpose of the NODA

On November 1, 2017, the EPA became aware that two memoranda prepared to support the September 21, 2017, proposed rule were inadvertently omitted from the docket. The subject of the two memoranda are “Development of the RTR Risk Modeling Dataset for the Portland Cement Manufacturing Source Category,” and “Technology Review for the Portland Cement Production Source Category.”

The purpose of the memorandum with the subject title of “Development of the RTR Risk Modeling Dataset for the Portland Cement Manufacturing Source Category” is to document the technical approach and rationale used to develop the risk modeling input data used to perform the residual risk assessment, pursuant to section 112(f) of the CAA. It includes discussions of the methods used to develop a list of facilities subject to the source category; the development of actual, acute, and allowable emissions datasets; and discussions of how stack parameter data and stack locations were derived. The memorandum was actually included in the docket as Appendix 1 of the document, “Residual Risk Assessment for the Portland Cement Manufacturing Source Category in Support of the September 2017 Risk and Technology Review Proposed Rule.” This document was posted to the docket prior to publication of the proposed rule as Docket Item No. EPA-HQ-OAR-2016-0442-0153. However, we also intended to include this memorandum as a stand-alone document.

The purpose of the memorandum with the subject title of “Technology Review for the Portland Cement Production Source Category” is to provide a summary of the methods used to determine what, if any, new developments in practices, processes, and control technologies exist for the Portland Cement Manufacturing source category to support our proposed determination regarding whether revisions to the rule are warranted under section 112(d)(6) of the CAA. The information provided by this memorandum was summarized in the preamble of the September 21, 2017, proposed rule.

The EPA recognizes the importance of these two documents, and posted both documents to the docket on November 3, 2017. The docket item numbers are EPA-HQ-OAR-2016-0442-0188 for “Development of the RTR Risk Modeling Dataset for the Portland Cement Manufacturing Source Category” and EPA-HQ-OAR-2016-0442-0189 for “Technology Review for

the Portland Cement Production Source Category.”

We are issuing this NODA to provide notice and ensure that parties have an opportunity to submit comments on these documents for a period of 30 days after their insertion in the docket. Although the public comment period for the proposed rule is scheduled to close on November 21, 2017, the public will be allowed to submit their comments, as well as provide comments on the proposed conclusions the EPA reached when it relied on these documents to propose the RTR rulemaking, for a period of 30 days, as required by the CAA. The comment period for the two aforementioned documents added to the docket was opened on November 3, 2017, and will close on December 4, 2017.

Dated: November 14, 2017.

Stephen Page,

Director of Air Quality Planning and Standards.

[FR Doc. 2017-25169 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[17X LLAKF0000 L12200000.AL0000 LXSS002L0000]

Proposed Supplementary Rules for Public Lands Managed by the Eastern Interior Field Office at the Fairbanks District Office Administrative Site, Fairbanks, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules for all BLM-administered lands within the Fairbanks District Office administrative site. These proposed supplementary rules are necessary to enhance the safety of visitors, protect natural resources, improve recreation experiences and opportunities, and protect public health.

DATES: Interested parties may submit written comments regarding the proposed supplementary rules until January 22, 2018.

ADDRESSES: You may submit comments by mail, electronic mail, or hand-delivery.

Mail or Hand Delivery: Jeanie Cole, Fairbanks District Office, 222 University Avenue, Fairbanks, AK 99709.

Electronic mail: EasternInterior@blm.gov (include “proposed supplementary rules” in the subject line).

FOR FURTHER INFORMATION CONTACT:

Jeanie Cole, Planning and Environmental Coordinator, Fairbanks District Office, 222 University Avenue, Fairbanks AK 99709, 907-474-2200, j05cole@blm.gov. People 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.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

You may mail, email, or hand-deliver comments to Jeanie Cole at the addresses listed above (See **ADDRESSES**). Written comments on the proposed supplementary rules should be specific and confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider or include in the Administrative Record for the final supplementary rules, comments delivered to an address other than those listed above (See **ADDRESSES**) or comments that the BLM receives after the close of the comment period (See **DATES**), unless they are postmarked or electronically dated before the deadline.

Comments, including names, street addresses, and other contact information for respondents, will be available for public review at the Fairbanks District Office listed in **ADDRESSES** during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your comment—including your personal identifying information—may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

The Fairbanks District Office is located in a densely-developed, mixed residential/commercial area of Fairbanks, Alaska, on BLM-managed public lands within the Eastern Interior Field Office on the south bank of the Chena River. In addition to visiting the office, the public often uses the open

space adjacent to the office building to picnic, walk dogs, or access the Chena River. Visitors encounter inconsistent rules regarding appropriate conduct at the Fairbanks District Office administrative site. This inconsistency hampers the BLM’s ability to provide a safe visitor experience and minimize conflicts among users. The BLM is proposing these supplementary rules to establish a consistent set of rules for the Fairbanks District Office administrative site. Lack of BLM rules for the management of this administrative site prevents BLM Law Enforcement Rangers from enforcing prohibited acts that compromise public health and safety, such as open fires in proximity to office buildings, overnight/long-term occupancy, unattended domestic animals, and unattended vehicles and skateboarding. The highly urbanized nature of the Fairbanks District Office and its location in Class C–E airspace on final approach to Fairbanks International Airport, as well as the adjacent State Division of Forestry-Interagency Fire helipad, make some uses of public lands inappropriate, for example, operating aerial drones which currently prohibits drone operation over or immediately adjacent to neighboring Forestry helipads (14 CFR 107.43). In addition, enforcing State laws and/or Borough ordinances is administratively more difficult for BLM Law Enforcement Rangers than enforcing established BLM rules. The BLM is proposing to establish these supplementary rules under the authority of 43 CFR 8365.1–6, which authorizes BLM State Directors to establish supplementary rules for the protection of persons, property, and public lands and resources. There are currently no existing supplementary rules for the Fairbanks District Office administrative site. The administrative site is all property and lands encompassed within the land parcel owned/managed by the BLM at North Star Borough, legal address 222 University Avenue, Fairbanks, AK 99709, described as:

Fairbanks Meridian, Alaska

T. 1 S., R. 1 W.,

Sec. 7, lots 63 and 69.

The area described here aggregates 11.41 acres.

You may obtain a map of the Fairbanks District Office administrative site in Fairbanks, Alaska, by contacting the office (see **ADDRESSES**) or by accessing the following Web site: <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=71962>.

II. Discussion of Proposed Supplementary Rules

In general, the BLM uses supplementary rules for permanent, site-specific regulations where general BLM regulations do not meet the specific management needs of a site's unique characteristics. Most common, are rules for recreation areas or administrative sites, such as the Fairbanks District Office administrative site. Field Office or statewide rules are also occasionally established. These proposed supplementary rules would apply to 11.41 acres of public lands comprising the BLM Fairbanks District Office administrative site. These proposed rules address general public conduct and public safety concerns at the BLM facility. It is important to note that the rules addressing fishing, boating, and operation of aerial drones will be enforced only in relation to BLM-managed lands above the mean high water line of the Chena River. Nothing in these proposed rules would impart any new or special authority or jurisdiction to BLM Law Enforcement Rangers on or within the navigable waters of the State of Alaska or airspace managed by the Federal Aviation Administration. The proposed rule pertaining to hunting seeks to minimize conflicts with the Fairbanks District Office administrative site's year-round heavy use by employees, volunteers, school groups, contractors, and the general public (see map associated with this proposal at <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=71962>). The proposed rule pertaining to trapping seeks to minimize conflict with the proposed dog off-leash area identified in proposed rule number 12. During the drafting of these hunting and trapping rules, the BLM consulted with the Alaska Department of Fish and Game, which did not object. The Alaska Department of Fish and Game has closed the Chena River to beaver trapping downstream from its confluence with the Little Chena River by State trapping regulations, and the closure area encompasses the segment of the River's riparian corridor adjoining the BLM Fairbanks District Office administrative site.

These proposed rules are broken down into three categories. Proposed supplementary rules 1, 3–7, 9–10, 12–13, and 15 parallel existing state laws or regulations and municipal ordinances that the BLM proposes to adopt in order to facilitate cooperation between BLM Law Enforcement Rangers and local or state authorities. Proposed

supplementary rules 8, 14, 17–20, 22–23, and 26–27 are new. Proposed supplementary rules 2, 11, 16, 21, and 24–25 are not new, but would implement minor modifications or revisions to existing BLM regulations in order to be more enforceable and better applicable to the Fairbanks administrative site's particular urban environment.

IV. Procedural Matters

Executive Orders 12866 and 13563, Regulatory Planning and Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Information and Regulatory Affairs under Executive Order 12866.

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

Clarity of the Supplementary Rules

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

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words, and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help the BLM revise the rule, your comments should be as

specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because we reached a Finding of No Significant Impact (FONSI).

Through an interdisciplinary review, the BLM Eastern Interior Field Office prepared an Environmental Assessment (DOI-BLM-AK-F020-2017-0006-EA) and made it available on the BLM Eastern Interior Field Office ePlanning NEPA register for public inspection on February 14, 2017, along with a draft FONSI. The EA and draft FONSI were also available for public review on the public BLM Web site for 30 days. A Decision Record to move forward with the proposed supplementary rule was signed March 17, 2017. These documents are available online at <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=71962>.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These proposed supplementary rules merely establish rules of conduct for public use of specific public lands. Therefore, the BLM has determined that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

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

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

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

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

These rules merely establish rules of conduct for use of certain public lands and do not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

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

Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. These rules do not address property rights in any form, and do not cause the impairment of one's property rights. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These rules do not conflict with any Alaska State law or regulation. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

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

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

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

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally-recognized Indian tribes and that consultation under the

Department's tribal consultation policy is not required. The rules do not affect Indian resource, religious, or property rights.

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

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

*Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required.

Proposed Supplementary Rules

Author

The principal author of these supplementary rules is Jonathan Priday, Bureau of Land Management Law Enforcement Ranger for the Eastern Interior Field Office.

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1–6, the BLM State Director proposes to establish supplementary rules for public lands managed by the BLM in Fairbanks, Alaska, to read as follows:

Definitions

1. *Brandish* means to point, shake, or wave menacingly or to exhibit in an ostentatious manner.
2. *Camping* means erecting a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material, parking a motor vehicle, motor home, or trailer, or mooring a vessel for the apparent purpose of overnight occupancy.
3. *Command and control of an animal* means that the animal returns immediately to and remains by the side of the handler in response to a verbal command. An animal is not under command and control if the animal approaches or remains within 10 feet of any person other than the handler, unless that person has communicated to the handler by spoken word or gesture that he or she consents to the presence of the animal.
4. *Explosives* means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, blasting caps, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. This includes, but is

not limited to, all materials listed in the Attorney General of the United States' 2016 list of explosive materials published in the **Federal Register** (81 FR 80684).

5. *Firearm or other projectile shooting device* means all firearms, air rifles, pellet and BB guns, spring guns, bows or crossbows and arrows, slings, paint ball markers, other instruments that can propel a projectile (such as a bullet, dart, or pellet) by combustion, air pressure, gas pressure, or other means, or any instrument that can be loaded with and fire blank cartridges.

6. *Motorized vehicle* means a vehicle that is propelled by a motor or engine, such as a car, truck, off-highway vehicle, motorcycle, or snowmobile.

7. *Street legal vehicle* means a motorized vehicle that meets standards and requirements identified in Alaska Administrative Code Title 13 and Alaska Statute 28—Motor Vehicles.

8. *Tether* means to restrain an animal by tying to any object or structure by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering does not include using a leash to walk an animal.

9. *Fairbanks District Office administrative site* means the parcels located at Fairbanks Meridian, Alaska, T. 1 S., R. 1 W., sec. 7, lots 63 and 69. The area described aggregates 11.41 acres.

Prohibited Acts

Unless otherwise authorized by the BLM, the following actions are prohibited on lands included within the Fairbanks District Office administrative site:

1. Operating, parking, or leaving unattended a motorized vehicle in violation of posted restrictions or limits or in such a manner or location to:
 - a. Create a safety hazard;
 - b. Interfere with other authorized users or uses;
 - c. Obstruct or impede normal or emergency traffic movement;
 - d. Interfere with or impede administrative activities;
 - e. Interfere with the parking of other vehicles;
 - f. Be in violation of Alaska State law or regulation;
 - g. Park or occupy a parking space posted or marked for handicapped use or BLM employees without displaying official identification tag, plate, or permit;
 - h. Operate, occupy, or park a vehicle other than in or on paved areas established for such use; or
 - i. Operate, occupy, or park a non-street legal motorized vehicle;
2. Possessing or using fireworks, Tannerite, ammonium nitrate,

ammonium perchlorate, and/or explosives;

3. Carrying concealed weapons in violation of Alaska State law;

4. Discharging or brandishing a firearm, projectile shooting device, or any implement capable of taking a human life, causing injury, or damaging property;

5. Using, carrying, or brandishing weapons in violation of Alaska State and/or Federal law;

6. Disorderly conduct as described in Alaska Statute 11.61.110;

7. Indecent exposure as described in Alaska Statute 11.41.458 and/or 11.41.460;

8. Hunting or trapping;

9. Fishing in violation of Alaska State law, rules, or regulations;

10. Boating in violation of Alaska State regulation or law or U.S. Coast Guard regulation;

11. Cutting or gathering green trees or parts or removing down or standing dead wood for any purpose;

12. Failing to physically restrain pets or domestic animals at all times, unless the pet or animal is under the command and control of the handler and is located on the designated grassy or wooded waterfront north of the Fairbanks District Office building. Leashes may not exceed six (6) feet in length;

13. Failing to prevent a pet from harassing, molesting, injuring, or killing humans, domesticated animals, wildlife, or livestock;

14. Leaving unattended and/or tethered domestic animals, except for animals that are inside passenger vehicles;

15. Failing to immediately remove or dispose of in a sanitary manner all pet, domestic animal, or human fecal matter or trash, garbage, or waste;

16. Disposing of any grey or waste water;

17. Starting or maintaining an open or camp fire;

18. Launching or operating drones or other unmanned aerial vehicles;

19. Unauthorized overnight occupancy, use, camping, or parking. Overnight is defined as anytime between the hours of 10 p.m. and 6 a.m.;

20. Accessing, using, or climbing any BLM buildings, infrastructure, or fenced areas. Except that the Fairbanks District Office Public Room is open and accessible to the public between the hours of 7:45 a.m. and 4:30 p.m. Monday through Friday, excluding Federal holidays and other days as directed by the BLM Alaska State Director;

21. Unauthorized access or use of government-owned and BLM employee-owned vehicles;

22. Using a skateboard, rollerblades, or hoverboard, in the building or use temporary ramps for these purposes;

23. Requesting, encouraging, or demanding someone engage in criminal conduct, with the intent to facilitate or contribute to the commission of that crime;

24. Use of a garbage dumpster without prior authorization from the BLM Authorized Officer;

25. Placement of household or commercial waste in or adjacent to provided garbage cans;

26. Leaving property unattended; or

27. Generating noise exceeding 88 decibels at 88 feet distance.

Exemptions

The following persons are exempt from these supplementary rules: Any Federal, State, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities, or companies holding an existing special-use permit and operating within the scope of their permit.

Enforcement

Any person who violates any of these supplementary rules 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 8560.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Alaska law.

Karen E. Mouritsen,

Acting State Director, Alaska.

[FR Doc. 2017-25100 Filed 11-20-17; 8:45 am]

BILLING CODE 4310-JA-P

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

Animal and Plant Health Inspection Service

[Docket No. APHIS-2017-0088]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Self-Certification Medical Statement

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations permitting applicants to self-certify certain medical statements when applying for positions with the Federal Government.

DATES: We will consider all comments that we receive on or before January 22, 2018.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0088>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2017-0088, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0088> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except

holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations related to the use of the Self-Certification Medical Statement, contact Ms. Beverly Cassidy, Human Resources Policy Specialist, Human Resources Division, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737-1236; (301) 851-2918. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483.

SUPPLEMENTARY INFORMATION:

Title: Self-Certification Medical Statement.

OMB Control Number: 0579-0196.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The U.S. Department of Agriculture's Marketing and Regulatory Programs (MRP) facilitates the domestic and international marketing of U.S. agricultural products and protects the health of domestic animal and plant resources. Resource management and administrative services, including human resources management, for MRP agencies are provided by the MRP Business Services unit of the Animal and Plant Health Inspection Service.

MRP agencies are authorized by the regulations in 5 CFR 339 and 29 CFR 1630 to obtain medical information from applicants for positions that have approved medical standards due to duties that are arduous, hazardous, or require a certain level of health status or fitness. These agencies have positions with duties that extend beyond sedentary and require specific medical standards and/or physical requirements to be performed successfully and safely. The medical qualifications standards for appointment to the covered positions listed in the MRP Medical Examination Requirements Charts are justified on the basis that the duties are arduous or hazardous, require a certain level of health status and fitness, and the nature of the positions involves a high degree of responsibility towards the public.

MRP uses the Self-Certification Medical Statement and documentation provided by applicants to evaluate and verify an applicant's abilities to perform the duties of the job. The inability to collect this information would adversely

affect MRP's ability to make employment decisions and determinations regarding an applicant's physical fitness to safely and efficiently perform assigned duties.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

- (3) Enhance the quality, utility, and clarity of the information to be collected; and

- (4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.167 hours per response.

Respondents: Members of the public applying for positions with MRP.

Estimated annual number of respondents: 606.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 607.

Estimated total annual burden on respondents: 102 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 15th day of November 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017-25205 Filed 11-20-17; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE**Forest Service****Eastern Region Recreation Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Eastern Region Recreation Resource Advisory Committee (Recreation RAC) will meet in Baltimore, Maryland. The Recreation RAC is authorized pursuant with the Federal Lands Recreation Enhancement Act (the Act) and the Federal Advisory Committee Act (FACA). Additional information concerning the Recreation RAC may be found by visiting the Recreation RAC's Web site at: <http://www.fs.usda.gov/main/r9/recreation/racs>.

DATES: The meeting will be held on Thursday, February 1, 2018 from 1:00 p.m. to 4:30 p.m. and Friday, February 2, 2018, from 8:00 a.m. to 4:30 p.m. at the Fairfield Inn & Suites Downtown Baltimore Inner Harbor.

All Recreation RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under the **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites Downtown Baltimore Inner Harbor, 101 S. President Street, Baltimore, MD 21202. The meeting will also be available via teleconference at 888-844-9904, 8400659#.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Eastern Region, Regional Office located at 626 E. Wisconsin Avenue, Milwaukee, Wisconsin. Please call 541-860-8048 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Joanna Wilson, Eastern Region Recreation RAC Coordinator by phone at 541-860-8048, or by email at jwilson08@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the following fee proposals:

a. Regional fee consistency approach;
b. Monongahela National Forest fee proposals which include the Hopskin Cabin;

c. Wayne National Forest fee proposals reducing trail permit fees for off-highway vehicle (OHV) users and eliminating fees for horse and mountain bike users;

d. Hiawatha National Forest fee proposals for Grand Island;

e. Chequamegon-Nicolet National Forest fee proposals including new fees at day use sites and one cabin rental, and fee increases for overnight sites; and

f. Green Mountain Finger Lakes National Forest fee proposals including new fee at Silver Lake Campgrounds, Texas Falls Day Use Area Pavilion, Grout Pond Campground, Backbone Horse Camp and Potomac Group Camp and Pavilion and fee increases at Chittenden Brook, Moosalamoo Campground, Hapgood Pond Campground, Hapgood Pond Day Use, Hapgood Pond Group Picnic sites, and Blueberry Patch Recreation Area.

Details on all fee proposals can be found at <http://www.fs.usda.gov/main/r9/recreation/racs>.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less starting at 3:00 p.m. Individuals wishing to make an oral statement should request in writing by January 22, 2018, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Recreation RAC may file written statements with the Committee's staff before or after the meeting. Written comments and time requests for time to make oral comments must be sent to Joanna Wilson, Eastern Region Recreation RAC Coordinator, 855 South Skylake Drive, Woodland Hills, Utah 84653; or by email to jwilson08@fs.fed.us.

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: November 6, 2017.

Glenn Casamassa,
Associate Deputy Chief, National Forest System.

[FR Doc. 2017-25114 Filed 11-20-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****Information Collection: Management of Wild Free-Roaming Horses and Burros****AGENCY:** Forest Service, USDA.**ACTION:** Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new collection of information request, *Management of Wild Free-Roaming Horses and Burros*.

DATES: Comments must be received in writing on or before January 22, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Director, Forest and Range Management and Vegetation Ecology, Mail Stop 1103, USDA Forest Service, 1400 Independence Avenue SW., Washington, DC 20024-1103.

Comments also may be submitted by email to: hdwoodward@fs.fed.us. The public may inspect comments received at the Office of the Director, Forest and Range Management and Vegetation Ecology, Third Floor SE., Sidney R. Yates Federal Building, 201 14th Street SW., Washington, DC, during normal business hours. Visitors are encouraged to call ahead to 202-791-8489 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Hope Woodward, U.S. Forest Service, Forest and Range Management and Vegetation Ecology, 202-791-8489. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Management of Wild Free-Roaming Horses and Burros.

OMB Number: 0596—New.

Expiration Date of Approval: New.

Type of Request: New.

Abstract: This notice pertains to the collection of information that enables the Forest Service to administer its private maintenance (*i.e.*, adoption) program for wild free roaming horses and burros located on U.S. Forest Service, Forests and Grasslands. The Forest Service uses the information to determine if applicants are qualified to provide humane care and proper treatment to wild horses and burros in compliance with the Wild Free-Roaming

Horses and Burros Act (16 U.S.C. 1331–1340), as amended, and 36 CFR 222.60. The Forest Service gathers information from applicants intending to adopt a wild horse and/or burro, and issues a certificate of title related to the adoption. The application form provides the Forest Service information including the:

(a) Applicant's name, address, contact information, history of adoption, and care facility,

(b) Description of horse and/or burro to be adopted,

(c) Veterinarian certification that animals, prior to issuing certificate of title, are in good condition and receiving proper care and treatment under humane conditions, and

(d) Ability to care for animals, transportation, fencing, and intended use.

The information will be collected from those who wish to adopt and obtain title to the wild horses and burros.

Applicants will fill out the required form in person and submit it to the Forest Service representative administering the wild horse and burro program. The Forest Service representative will review the form and determine whether the applicant understands the terms of adoption and prohibited acts, has been in compliance with the adoption agreement, and will provide or has provided humane treatment, care, and maintenance for the animal while in their care.

Without the information from these application forms, the Forest Service will not be able to provide the oversight required to administer the wild horse and burro program as authorized and regulated by law.

Type of Respondents: Individuals, private businesses, state governments, tribal governments.

Estimated Annual Number of Respondents: 400.

Estimate of Burden Hours per Response: 0.50 hours.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden Hours on Respondents: 200 Hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden 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 to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: November 6, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–25116 Filed 11–20–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Idaho and Southwestern Montana (Beaverhead-Deerlodge, Boise, Caribou-Targhee, Salmon-Challis, and Sawtooth National Forests and Curlew National Grassland); Nevada (Humboldt-Toiyabe National Forest); Utah (Ashley, Dixie, Fishlake, Manti-La Sal, and Uinta-Wasatch-Cache National Forests); Wyoming (Bridger-Teton National Forest); and Wyoming/Colorado (Medicine Bow-Routt National Forest and Thunder Basin National Grassland); Amendments to Land Management Plans for Greater Sage-Grouse Conservation

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: This notice initiates the scoping process to solicit public comments on greater sage-grouse land management issues that could warrant land management plan amendments. Land management plans for National Forests in Idaho, Montana, Nevada, Utah, Colorado and Wyoming were amended in September 2015 to incorporate conservation measures to support the continued existence of the greater sage-grouse. New issues have been identified since 2015. The Forest Service intends to work cooperatively with the Bureau of Land Management (BLM) to address these issues and others to be identified through this scoping process. This notice also identifies the planning rule provisions likely to be directly related, and so applicable, to plan amendments that may be proposed.

DATES: Comments concerning the scope of the analysis must be received by January 5, 2018.

ADDRESSES: Send written comments to Sage-grouse Amendment Comment, USDA Forest Service Intermountain Region, Federal Building, 324 25th Street, Ogden, UT 84401. Comments may also be sent via email to comments-intermtn-regional-office@fs.fed.us, or via facsimile to 801–625–5277.

FOR FURTHER INFORMATION CONTACT: John Shivik at 801–625–5667 or email johnshivik@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 31, 2017, the United States District Court for the District of Nevada held that the Forest Service violated the National Environmental Policy Act (NEPA) by failing to provide the public with enough information to meaningfully participate in the Environmental Impact Statement (EIS) process in the Nevada and Northeastern California Greater Sage-grouse Land Management Plan Amendment in Nevada. Specifically, the agencies designated Sagebrush Focal Areas (SFAs) between the draft and final Environmental Impact Statements. The court remanded the Records of Decision to the agencies to prepare a Supplemental Environmental Impact Statement. *Western Exploration, LLC v. U.S. Dept. of Interior*, 250 F.Supp.3d 718, 750–751. Similar claims were raised in other, pending lawsuits.

In order to comply with the court and to address issues identified by the BLM, the states, and various interested parties, the Forest Service is considering the possibility of amending some, all, or none of the Forest Service land management plans that were amended in 2015 regarding greater sage-grouse conservation in the states of Colorado, Idaho, Nevada, Wyoming, Utah and Montana (“2015 Sage-Grouse Plans”). The Forest Service seeks comment on certain parts of the 2015 Sage-Grouse Plans that have been preliminarily identified, but also seeks input on other related issues. The specific topics already identified for consideration include: SFA designations; mitigation standards; disturbance and density caps; modification of habitat boundaries to reflect new information; variance of management approaches within Priority Habitat Management Areas and General Habitat Management Areas; causal factors; adaptive management; the land

use exemptions process; and grazing guidelines.

The Forest Service coordinated with the Sage Grouse Task Force and the BLM to identify the preliminary issues with current plan direction. The Forest Service intends to continue to work as a cooperating agency with the BLM in their planning process. This notice and the potential planning effort do not preclude the Forest Service from addressing issues through other means, including policy, training, or administrative changes, nor does it commit the Forest Service to amending some, all, or none of the greater sage-grouse plans.

If the Forest Service amends land management plans, we hereby give notice that substantive requirements of the 2012 Planning Rule (36 CFR 219) likely to be directly related, and therefore applicable, to the amendments are in sections 219.8(b) (social and economic sustainability), 219.9 (diversity of plant and animal communities), and 219.10(a)(1) (integrated resource management).

In addition to requesting comment on the topics identified in this notice, the Forest Service requests input on whether, if it undertakes plan amendments, the planning effort should occur on a regional, state-by-state, or forest-by-forest basis. In particular, the Forest Service looks forward to receiving the comments of the governors of each affected State.

Lead and Cooperating Agencies

If any further analysis and associated decision documents are completed, the Forest Service will be the lead agency, but will invite the BLM to act as a cooperating agency. The Forest Service will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action, are invited to participate in the scoping process and, if eligible, may request or be asked by the Forest Service to participate in the development of the environmental analysis as a cooperating agency.

The public is encouraged to help identify any issues, management questions, or concerns that should be addressed in plan amendment(s) or policy or administrative action. The Forest Service will work collaboratively with interested parties to identify the management direction that is best suited to local, regional, and national needs and concerns. The Forest Service will use an interdisciplinary approach as it

considers the variety of resource issues and concerns.

Dated: November 13, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017-25112 Filed 11-20-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Financial Information Security Request Form

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection; Financial Information Security Request Form (0596-0204).

DATES: Comments must be received in writing on or before January 22, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to USDA-Forest Service, Attn: Rico Clarke, Financial Policy, Sidney Yates Federal Building: 201 14th St. SW., Washington, DC 20250. Comments also may be submitted via email to: rclarke@fs.fed.us. The public may inspect comments received at the above address during normal business hours. Visitors are encouraged to call ahead to (703) 605-4938 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Rico Clarke, Director of Financial Policy, (703) 605-4938. Individuals who use telecommunications for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877-8339, between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Financial Information Security Request Form.

OMB Number: 0596-0204.

Expiration Date of Approval: 02/28/18.

Type of Request: Extension without Revision.

Abstract: The majority of the Forest Service's financial records are in databases stored at the National Finance Center (NFC). The Forest Service uses employees and contractors to maintain these financial records. The employees

and contractors must have access to NFC to perform their duties.

The Forest Service uses an electronic form FS-6500-214, Financial Information Security Request Form, to apply to NFC for access for a specific employee or contractor. Due to program management decisions and budget constraints, it has been determined that contractors will need to complete and submit the form.

The contractor and the Forest Service systems provide the information necessary to complete form FS-6500-214. The contractor verifies completion of two courses within the last year: Privacy Act Basics and IT (Information Technology) Security. The contractor then enters their short name assigned by the Forest Service. Using the short name, the screen is populated with information that the contractor can change if incorrect. The information includes: Name, work email, work telephone number, and job title. The contractor checks the box for a non-federal employee and provides the expiration date of the contract. The contractor then selects the databases and actions needed. Based on the database(s) selected, the contractor provides additional information regarding the financial systems, work location, access scope, etc. Once the form is submitted to the client security officer, a one-page agreement automatically prints, which the contractor and client security officer sign. The agreement is a certification statement that acknowledges the contractor's recognition of the sensitive nature of the information and agrees to use the information only for authorized purposes. The information collected is shared with those managing or overseeing the financial systems used by the Forest Service, this includes auditors.

Estimate of Annual Burden: 10 minutes.

Type of Respondents: Contracted employees.

Estimated Annual Number of Respondents: 9,549.

Estimated Annual Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 4,774 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden 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 to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: November 3, 2017.

Antoine L. Dixon,
Chief Financial Officer (CFO).

[FR Doc. 2017-25113 Filed 11-20-17; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Montana Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Montana Advisory Committee (Committee) to the Commission will be held at 11:00 a.m. (Mountain Time) Thursday, December 14, 2017. The purpose of the meeting is for the Committee to discuss preparations to hear testimony on border town discrimination.

DATES: The meeting will be held on Thursday, December 14, 2017, at 11:00 a.m. MT.

Public Call Information:

Dial: 877-440-5788.

Conference ID: 1647618.

FOR FURTHER INFORMATION CONTACT: Angelica Trevino at atrevino@usccr.gov or (213) 894-3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877-440-5788, conference ID number: 1647618. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing

impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894-0508, or emailed to Angelica Trevino at atrevino@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (213) 894-3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at <https://facadatabase.gov/committee/meetings.aspx?cid=259>. Please click on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

- I. Welcome
- II. Approval of minutes from October 24, 2017 meeting
- III. Discussion of panelists and logistics for hearing testimony on border town discrimination
- IV. Next Steps
- V. Adjournment

Dated: November 15, 2017.

David Mussatt,
Supervisory Chief, Regional Programs Unit.
[FR Doc. 2017-25149 Filed 11-20-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-894]

Certain Tissue Paper Products From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017

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

SUMMARY: The Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on certain tissue paper products (tissue paper) from the People's Republic of China (PRC) for the period of review (POR) March 1, 2016, through February 28, 2017. We preliminarily determine that mandatory respondent Global Key, Inc. (Global Key) is not eligible for a separate rate and, therefore, remains part of the PRC-wide entity. We also preliminarily determine that mandatory respondent Chung Rhy Special Paper Mill Co., Ltd. (Chung Rhy) had no shipments during the POR. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping (AD) duties on all appropriate entries of subject merchandise. Interested parties are invited to comment on these preliminary results.

DATES: Applicable November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Sergio Balbontin, 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) 482-1766 or (202) 482-6478, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is certain tissue paper products. The merchandise subject to the order is classifiable under subheadings: 4802.30, 4802.54, 4802.61, 4802.62, 4802.69, 4804.31.1000, 4804.31.2000, 4804.31.4020, 4804.31.4040, 4804.31.6000, 4804.39, 4805.91.1090, 4805.91.5000, 4805.91.7000, 4806.40, 4808.30, 4808.90, 4811.90, 4823.90, 4802.50.00, 4802.90.00, 4805.91.90, 9505.90.40.2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043 and 2003.10.0047 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.¹

Preliminary Determination of No Shipments

Based on Chung Rhy's timely submitted certification² and information from CBP,³ we preliminarily determine that Chung Rhy had no exports, sales, shipments, or entries of subject merchandise to the United States during the POR. In addition, the Department finds that, consistent with its assessment practice in non-market economy (NME) cases, it is appropriate not to rescind the review in part in these circumstances, but to complete the review with respect to Chung Rhy and issue appropriate instructions to CBP based on the final results of the review.⁴ For additional information regarding this determination, see the Preliminary Decision Memorandum.

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). Because Global Key did not respond to our AD questionnaire, we preliminarily determine that Global Key has not demonstrated its eligibility for a separate rate, and accordingly, we are preliminarily treating Global Key as part of the PRC-wide entity.

The Department's policy regarding conditional review of the PRC-wide entity applies to this administrative

review.⁵ 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 current rate, *i.e.*, 112.64 percent,⁶ is not subject to change.

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 in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Disclosure

Normally, the Department will disclose the calculations used in its analysis to parties in this review within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, in this case, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be

submitted no later than five days after the deadline for case briefs.⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of 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.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, AD duties on all appropriate entries covered by this review.⁸ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If the Department continues to find Global Key as part of the PRC-wide entity in the final results, the Department will instruct CBP to liquidate POR entries of subject merchandise from this company at the PRC-wide rate of 112.64 percent. Moreover, if the Department continues to make a no-shipment finding for Chung Rhy in the final results, any suspended entries of subject merchandise from Chung Rhy will also be liquidated at the PRC-wide rate.⁹

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this

¹ See Memorandum from James Maeder, Senior Director, performing the duties of the Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Tissue Paper Products from the People's Republic of China: 2016–2017," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

² See Letter from Chung Rhy, "Antidumping Duty Administrative Review on Certain Tissue Paper Products from China (A–570–894) for the Period from March 1, 2016 to February 28, 2017," dated May 31, 2017 (No Shipment Certification).

³ See Memorandum, "No Shipment Inquiry for Chung Rhy Specialty Paper Mfg. Co., during the period 03/01/2016–02/28/2017," dated August 4, 2017.

⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) ("Assessment Notice"); see also "Assessment Rates" section below.

⁵ 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, 65970 (November 4, 2013).

⁶ See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005). See also *Certain Tissue Paper Products from the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review*, 75 FR 63806, 63809 (October 18, 2010), and accompanying Issues and Decision Memorandum, "Issues and Decision Memorandum for the Final Results of the 2008–2009 Administrative Review of Certain Tissue Paper Products from the People's Republic of China (PRC)."

⁷ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

⁸ See 19 CFR 351.212(b).

⁹ See *Assessment Notice*.

administrative review 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 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; (2) 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, 112.64 per cent; and (3) 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 also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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.

Dated: November 15, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the 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
 - a. Preliminary Determination of No Shipments
 - b. NME Country Status
 - c. Separate Rates
5. Recommendation

[FR Doc. 2017-25174 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA Request for Panel Review in the matter of Certain Softwood Lumber Products From Canada: Final Affirmative Countervailing Duty Determination (Secretariat File Number: USA-CDA-2017-1904-02).

SUMMARY: A Request for Panel Review was filed on behalf of the Government of Canada, the Government of Alberta, the Government of British Columbia, the Government of Manitoba, the Government of New Brunswick, the Government of Ontario, the Government of Québec, the Government of Saskatchewan, Alberta Softwood Lumber Trade Council ("ASLTC"), British Columbia Lumber Trade Council ("BCLTC"), Conseil de l'Industrie forestiere du Québec ("CIFQ"), Ontario Forest Industries Association ("OFIA"), New Brunswick Lumber Producers ("NBLP"), Canfor Corporation ("Canfor"), J.D. Irving, Limited ("JDI"), Resolute FP Canada Inc. ("Resolute"), Tolko Marketing and Sales Ltd. and Tolko Industries Ltd. ("Tolko"), and West Fraser Mills Ltd. ("West Fraser") with the United States Section of the NAFTA Secretariat on November 14, 2017, pursuant to NAFTA Article 1904. Panel Review was requested of the Department of Commerce's final countervailing duty determination regarding Certain Softwood Lumber Products from Canada. The final determination was published in the **Federal Register** on November 8, 2017 (82 FR 51814). The NAFTA Secretariat has assigned case number USA-CDA-2017-1904-02 to this request.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW., Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade

remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904>.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 14, 2017);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 29, 2017); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: November 15, 2017.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2017-25123 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment

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

SUMMARY: The Department of Commerce (Commerce) seeks public comment on any subsidies, including stumpage subsidies, provided by certain countries exporting softwood lumber or softwood lumber products to the United States during the period January 1, 2017, through June 30, 2017.

DATES: Comments must be submitted by December 21, 2017.

ADDRESSES: See the Submission of Comments section below.

FOR FURTHER INFORMATION CONTACT:

James Terpstra or Brendan Quinn, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3965 or (202) 482-5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2008, section 805 of Title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008) was enacted into law. Under this provision, the Secretary of Commerce is mandated to submit to the appropriate Congressional committees a report every 180 days on any subsidy provided by countries exporting softwood lumber or softwood lumber products to the United States, including stumpage subsidies.

Commerce submitted its last subsidy report on June 20, 2017. As part of its newest report, Commerce intends to include a list of subsidy programs identified with sufficient clarity by the public in response to this notice.¹

Request for Comments

Given the large number of countries that export softwood lumber and softwood lumber products to the United States, we are soliciting public comment only on subsidies provided by countries the exports of which accounted for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule code 4407.1001 (which accounts for the vast majority of imports), during the period January 1, 2017, through June 30, 2017. Official U.S. import data published by the United States International Trade Commission Tariff and Trade DataWeb indicate that three countries, Canada, Germany and Chile exported softwood lumber to the United States during that time period in amounts sufficient to account for at least one percent of U.S. imports of softwood lumber products. We intend to rely on similar previous six-month periods to identify the countries subject to future reports on softwood lumber subsidies. For example, we will rely on U.S. imports

of softwood lumber and softwood lumber products during the period July 1, 2017 through December 31, 2017, to select the countries subject to the next report.

Under U.S. trade law, a subsidy exists where an authority: (i) Provides a financial contribution; (ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994; or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred.²

Parties should include in their comments: (1) The country which provided the subsidy; (2) the name of the subsidy program; (3) a brief description (at least 3-4 sentences) of the subsidy program; and (4) the government body or authority that provided the subsidy.

Submission of Comments

Persons wishing to comment should file comments by the date specified above. Comments should only include publicly available information. Commerce will not accept comments accompanied by a request that a part or all of the material be treated confidentially due to business proprietary concerns or for any other reason. Any such comments or materials will be returned to the submitter and will not be considered in Commerce's report. Comments must be filed in electronic Portable Document Format (PDF) submitted on CD-ROM or by email to the email address of the EC Webmaster, below.

The comments received will be made available to the public in PDF on the Enforcement and Compliance Web site at the following address: <http://enforcement.trade.gov/sla2008/sla-index.html>. Any questions concerning file formatting, access on the Internet, or other electronic filing issues should be addressed to Moustapha Sylla, Enforcement and Compliance Webmaster, at (202) 482-8104, email address: webmaster_support@trade.gov.

All comments and submissions in response to this Request for Comment should be received by Commerce no later than 5 p.m. Eastern Standard Time on the above-referenced deadline date.

Dated: November 17, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-25283 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-894]

Certain Tapered Roller Bearings From the Republic of Korea: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable November 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Blaine Wiltse at 202-482-6345, or Manuel Rey at 202-482-5518, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2017, the Department of Commerce (the Department) initiated a less-than-fair value (LTFV) investigation of imports of certain tapered roller bearings from the Republic of Korea.¹ Currently, the preliminary determination is due no later than December 5, 2017.

Postponement of the Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a LTFV investigation within 140 days after the date on which the Department initiated the investigation. However, section 733(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 190 days after the date on which the Department initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is

¹ On November 1, 2017, the Department issued its final determination in the countervailing duty investigation involving Certain Softwood Lumber Products from Canada. See *Certain Softwood Lumber Products From Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017).

² See section 771(5)(B) of the Tariff Act of 1930, as amended.

¹ See *Certain Tapered Roller Bearings from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 82 FR 34477 (July 25, 2017).

necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. The Department will grant the request unless it finds compelling reasons to deny the request.

On November 8, 2017, The Timken Company (the petitioner) submitted a timely request that we postpone the preliminary determination in this LTFV investigation. In its request, the petitioner cited outstanding issues regarding affiliation and the particular market situation which affects the cost of production information, such that further supplemental questionnaires will be required to address all issues and develop the case record.² In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and the Department finds no compelling reason to deny the request. Therefore, pursuant to section 733(c)(1)(A) of the Act, we are postponing the deadline for the preliminary determination by 50 days (*i.e.*, 190 days after the date on which these investigations were initiated). As a result, the Department will issue its preliminary determination no later than January 24, 2018. Pursuant to section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 15, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-25173 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD505

Endangered Species; File No. 18688

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that NMFS Pacific Islands Regional Office, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814 [Responsible Party: Michael Tosatto], has requested a modification to scientific research Permit No. 18688.

DATES: Written, telefaxed, or email comments must be received on or before December 21, 2017.

ADDRESSES: The modification request 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. 18688 Mod 3 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:

Amy Hapeman or Erin Markin, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 18688, issued on May 5, 2015 (80 FR 36769), is requested under the authority of the Endangered Species Act of 1973, as amended (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).

Permit No. 18688 authorizes the permit holder to conduct research on sea turtles bycaught in three longline fisheries in the Pacific Ocean around Hawaii and American Samoa to assess sea turtle post-hooking survival, movements, and ecology in pelagic habitats. The permit authorizes examination, morphometrics, biological sampling, and tagging of live hawksbill (*Eretmochelys imbricata*), olive ridley (*Lepidochelys olivacea*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) sea turtles and the collection of carcasses, tissues and parts from dead sea turtles. Authorized take numbers for each species were consistent with the number of turtles allowed to be bycaught via the biological opinion prepared for each fishery. The permit holder requests authorization to increase the number of animals for each species that may be taken for research in the American Samoa longline fishery to match the incidental take statement of a new biological opinion prepared for this fishery after Permit No. 18688 was issued. Live sea turtles would undergo the same procedures as currently authorized by the permit. No other changes are requested.

Dated: November 16, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017-25163 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF760

Fisheries of the Exclusive Economic Zone Off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces the receipt of an application and the public comment period for an exempted fishing permit (EFP) from Mr. John Gauvin of Gauvin and Associates, LLC. If granted, this permit would allow the applicant to continue the development and testing of a salmon excluder device for the Bering Sea pollock trawl fishery.

² See Letter from the petitioner, "Certain Tapered Roller Bearings from the Republic of Korea—Petitioner's Request for Extension of the Preliminary Determination," (November 8, 2017).

The objective of the EFP application is to identify upgraded excluder design(s) and specific rigging configurations most likely to produce the greatest relative reduction in Chinook salmon bycatch rates on vessels from different horsepower and size classes of the Bering Sea pollock fishery. The most effective current salmon excluder designs and rigging configurations would be refined and tested systematically under conditions that approximate as closely as possible actual commercial fishing practices in that fishery. Testing will be conducted in 2018, 2019, and 2020, with results from each year guiding the device design for each vessel size class to be tested the subsequent year during the period of this EFP. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments on this EFP application must be submitted to NMFS on or before December 12, 2017. In addition, public comments can be presented to The North Pacific Fishery Management Council (Council) that will review and consider the application at its meeting from December 4, 2017, through December 12, 2017, in Anchorage, AK.

ADDRESSES: The Council meeting will be held at the Anchorage Hilton Hotel, 500 W 3rd Ave., Anchorage, AK 99501. The agenda for the Council meeting is available at <http://www.npfmc.org>. In addition to submission of public comments at the Council meeting, you may submit your comments, identified by NOAA-NMFS-2017-0127, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to www.regulations.gov

- *#!docketDetail;D=NOAA-NMFS-2017-0127*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: 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 NMFS will post the comments for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will

be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act, the final Environmental Impact Statement on Bering Sea Chinook Salmon Bycatch Management (Amendment 91 under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP)), and the Environmental Assessment prepared for Amendment 110 to the FMP are available from the Alaska Region, NMFS Web site at <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT:

Bridget Mansfield, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) under the FMP, which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations

Background

Pacific salmon support large commercial, recreational, and subsistence fisheries and continue to be of great cultural importance throughout Alaska. Chinook salmon bycatch, where bycatch means fish caught and released while targeting another species or caught and released while targeting the same species, in the Bering Sea pollock fishery is a concern to those who depend on those salmon resources in Alaska and Canada, and further reduction in salmon bycatch is desired by those who use salmon resources and by the pollock fishing industry. Annual limits (PSC) are placed on the number of Chinook salmon that may be taken in the BSAI trawl fisheries. Chinook salmon bycatch in the Bering Sea pollock fishery is managed under a system of two PSC limits (described below); allocations among the Bering Sea pollock fishery sectors, inshore cooperatives, and Community Development Quota (CDQ) groups; and other measures designed to minimize bycatch below the higher PSC limit.

The PSC limits became effective in 2011 as part of Amendment 91 to the FMP (75 FR 53026, August 30, 2010) to manage Chinook salmon bycatch in the Bering Sea pollock trawl fishery. Amendment 91 includes two Chinook salmon PSC limits: the 60,000 Chinook salmon PSC limit is available to those who participate in an industry-developed incentive plan agreement (IPA) that provides incentives for each vessel to avoid Chinook salmon bycatch, and a 47,591 Chinook salmon PSC limit applies fleet-wide if industry does not form any IPAs. Currently all vessels in this fishery participate in an IPA. Amendment 110 to the FMP was implemented in 2016 (81 FR 37534, June 10, 2016) to modify the existing Chinook salmon bycatch program, specifically to make it more effective at avoiding Chinook salmon, particularly when Chinook salmon abundance is low. More details on Amendments 91 and 110 may be found in the final Environmental Impact Statement on Bering Sea Chinook Salmon Bycatch Management (Amendment 91), and the Environmental Assessment prepared for Amendment 110 (see **ADDRESSES**).

The majority of pollock fishermen in the Bering Sea use salmon excluder devices on a regular basis as part of the overall effort by the fishery to reduce salmon bycatch under the Chinook PSC limits and bycatch avoidance incentive programs in place in the fishery. Improvements in Chinook salmon escapement and pollock retention rates for these excluder devices would provide an enhanced opportunity to minimize Chinook salmon bycatch in the Bering Sea pollock fishery to the extent practicable, while maintaining the potential for the full harvest of the pollock total allowable catch (TAC) within specified PSC limits. An EFP is needed to facilitate effective testing of improvements to the excluder devices, because exemptions from certain regulations, as described below, would be required to meet the needs of the experimental design.

Exempted Fishing Permit

On August 15, 2017, Mr. John Gauvin, of Gauvin and Associates, LLC, submitted an application for an EFP for 2018 through 2020 to improve the performance of the salmon excluder device developed under EFP 15-01 from 2015 to 2016, and to validate the performance of this device for pollock trawl gear used in the Bering Sea. The objective of the proposed 2018 EFP is to test refinements to existing salmon excluder devices on vessels from different horsepower and size classes in the Bering Sea pollock fishery to

identify the excluder design(s) and specific rigging variations that are most likely to produce the greatest relative improvements to reductions in Chinook salmon bycatch rates without significantly lowering pollock catch rates. Salmon are designated as prohibited species that are incidentally caught in the pollock fishery (§ 679.21(e) and (f)). The most effective current excluder designs and rigging configurations will be refined and tested systematically under conditions that approximate as closely as possible actual commercial fishing practices in the Bering Sea pollock trawl fishery. Testing will be conducted in 2018, 2019, and 2020 during the "A" season for pollock from January 20 through June 10. Results from each year would guide the device design tests in each vessel size class for each subsequent year of this EFP.

The experiment would be conducted on vessels authorized to fish in the Bering Sea pollock trawl fishery. Tests would be performed in each of the following three vessel classes: (1) Catcher vessels equal to or less than 1,800 horsepower, (2) catcher vessels greater than 1,800 horsepower, and (3) catcher processors. Experimental methods specify that each device and specific adjustments to be tested be inserted into a pollock trawl net with improved camera and lighting systems to monitor the flow of salmon and pollock within the net and the level of escapement through the excluder portal during normal fishing operations. The effectiveness of the excluder devices will be monitored under a set of systematic vessel operations for each vessel class.

Approximately 600 non-Chinook salmon and 600 Chinook salmon from the "A" season for each year from 2018 through 2020 would be required to support the project. In total, the applicant would be limited to harvesting 1,800 non-Chinook and 1,800 Chinook salmon during the EFP period. The experimental design requires this quantity of salmon to ensure statistically valid results. A total of 2,500 metric tons (mt) of groundfish (primarily pollock) would be taken during each "A" season in 2018 through 2020 over the duration of the EFP. Approximately 97 to 99 percent of the groundfish harvested is expected to be pollock. The experimental design requires this quantity of pollock to ensure a statistically adequate sample size for measuring pollock escapement through the salmon excluder device.

To test the salmon excluder devices, exemptions would be necessary from regulations for salmon bycatch

management, observer requirements, closure areas, TACs for groundfish, and PSC limits for the pollock fishery. Following the practice that the Council and NMFS have approved for past EFP experiments dedicated to salmon bycatch reduction, groundfish and prohibited species taken during the experiment would not be counted against the annual TAC and PSC limits (65 FR 55223, September 13, 2000). Chinook salmon taken during the experiment would not be counted toward the Chinook salmon PSC limits under § 679.21(f). If the EFP salmon were counted toward and exceeded PSC limits, possibly triggering additional management measures, those EFP salmon could create an additional burden on pollock trawl fishermen.

The final 2018 Bering Sea pollock harvest specifications were published on February 27, 2017 (82 FR 11826). The acceptable biological catch (ABC) level is 2,979,000 mt, and the TAC is 1,345,000 mt. Up to 2,500 mt of pollock per year would be allowed to be harvested under the proposed EFP without accruing against the Bering Sea pollock TAC. That amount equates to 0.08 percent of the 2018 Bering Sea pollock ABC, 1.8 percent of the TAC, and 1.5 percent of the difference between the ABC and the TAC. The ABC and TAC levels for 2019 and 2020 would be set under the normal harvest specifications setting process as stipulated at § 679.20. If Bering Sea pollock ABC and TAC levels for those years are similar to 2018, the amount of pollock taken under the EFP would represent similarly low fractions of the ABC and TAC. The EFP fishing will be permitted for this proposed action if the ABC for Bering Sea pollock exceeds the TAC by at least 2,500 mt in 2019 and 2020.

Very little groundfish incidental catch occurs in the pollock fishery, and the harvest of other fish species during the EFP fishing is expected to be 25 mt to 75 mt per season. The majority of these other species harvested under the EFP likely would be Pacific cod, skates, flatfish, halibut, and jellyfish. The amount of groundfish harvest under the EFP and by the commercial groundfish fisheries is not expected to cause the ABCs for any groundfish species to be exceeded in any year from 2018 through 2020 because other groundfish TACs are set with a sufficient difference between ABC and TAC to accommodate EFP fishing catch of groundfish species other than pollock.

The EFP would include an exemption from selected observer requirements at § 679.50. Participating vessels would use "sea samplers," who are NMFS-

trained observers. They would not be deployed as NMFS observers, however, at the time of the EFP fishing. Space limitations aboard the participating vessels would preclude placing both sea samplers and observers aboard and allowing for concurrent operations. The "sea samplers" would conduct the EFP data collection and perform other observer duties that normally would be required for vessels directed fishing for pollock. Vessels would not be exempt from observer requirements for non-EFP fishing during trips in which both EFP and non-EFP fishing occurs.

The applicant also requested an exemption to fish in areas otherwise closed to fishing with trawl gear under 50 CFR part 679: § 679.22(a)(7)(ii) and the Steller Sea Lion Conservation Area (SCA) (§ 679.22(a)(7)(vii)). Exempted fishing must be conducted outside Steller sea lion protection areas closed to pollock trawl fishing, as described at § 679.22(a)(7), except the sector closure of the Steller Sea Lion Conservation Area (SCA) under § 679.22(a)(7)(vii)(C)(2). The SCA exemption will only apply as long as the combined amount of pollock taken from the SCA does not exceed the 28 percent annual total allowable catch limit (TAC) before April 1, as specified in the Steller sea lion protection measures (§§ 679.20(a)(5)(i)(C) and 679.22(a)(7)(vii)). The experimental design requires that the tests be conducted in areas of salmon concentration sufficient to ensure a statistically adequate sample size. The SCA includes areas of high salmon concentration and is therefore an ideal location for conducting the experiment and ensuring that the vessel encounters sufficient concentrations of salmon and pollock for meeting the experimental design.

The applicant would be required to submit to NMFS a final report of the EFP results by December 31, 2020. The report would include the salmon excluder device designs and rigging configurations tested in the experiment; how the tests were conducted, including operational variables tested (such as towing speeds, water conditions, target catch rates); performance of the device in terms of salmon bycatch reduction, target catch escapement, handling, and maintenance; and the total catch of each groundfish species and Pacific halibut in metric tons and the total number of each salmon species caught during EFP fishing.

The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment, as detailed in the draft categorical exclusion prepared

for this action (see **ADDRESSES**). The EFP would be subject to modifications pending any new relevant information regarding the 2018 through 2020 fishery, including the groundfish harvest specifications.

In accordance with § 679.6 and 600 CFR 745(b)(3)(ii), NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2017 meeting, which will be held at the Anchorage Hilton Hotel, 500 W 3rd Ave, Anchorage, AK. The applicant has been invited to appear in support of the application.

Public Comments

Interested persons may comment on the application at the December 2017 Council meeting during public testimony or until December 12, 2017. Information regarding the meeting is available at the Council's Web site at <http://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

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

Dated: November 15, 2017.

Emily H. Menashes,

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

[FR Doc. 2017-25160 Filed 11-20-17; 8:45 am]

BILLING CODE 3510-22-P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m.–12:00 p.m., November 27, 2017.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004.

STATUS: Closed. During the closed meeting, the Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemptions to close a meeting described in 5 U.S.C. 552b(c)(3) and (9)(B) and 10 CFR 1704.4(c) and (h). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute, and/or be likely to significantly frustrate implementation of a proposed agency action. In this case, the deliberations will pertain to

potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

MATTERS TO BE CONSIDERED: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public Web site at www.dnfsb.gov. Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: November 17, 2017.

Sean Sullivan,

Chairman.

[FR Doc. 2017-25270 Filed 11-17-17; 4:15 pm]

BILLING CODE 3670-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0115]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Office of State Support Progress Check Quarterly Protocol

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 a new information collection.

DATES: Interested persons are invited to submit comments on or before December 21, 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-0115. 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 216-44, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Patrick Carr, 202-708-8196.

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: Office of State Support Progress Check Quarterly Protocol.

OMB Control Number: 1810-NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 636.

Abstract: The Office of State Support (OSS) administers Title I, Sections 1001-1004 (School Improvement); Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies); Title I, Part B (Enhanced Assessments Grants (EAG), and Grants for State Assessments and Related Activities); Title II, Part A (Supporting Effective Instruction); Title III, Part A

(English Language Acquisition, Language Enhancement, and Academic Achievement); and School Improvement Grants (SIG). Quarterly progress checks, phone or in-person conversations every three months of a fiscal year with State directors and coordinators, help ensure that State Educational Agencies (SEAs) are making progress toward increasing student achievement and improving the quality of instruction for all students through regular conversations about the quality of SEA implementation of OSS administered programs. The information shared with the OSS helps inform the selection and delivery of technical assistance to SEAs and aligns structures, processes, and routines so the OSS can regularly monitor the connection between grant administration and intended outcomes. Progress checks also allow the OSS to proactively engage with SEAs to identify any issues ahead of formal monitoring visits, decreasing the need for enforcement actions and minimizing burden for SEAs. ED will collect this data from the 53 grantees that receive the grants listed above to inform its review of grantee implementation, outcomes, oversight, and accountability. In order to allow for a comprehensive program review of OSS grantees, we are requesting a three-year clearance with this form.

Dated: November 16, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-25199 Filed 11-20-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0142]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; International Computer and Information Literacy Study (ICILS 2018) Main Study

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 December 21, 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-0142. 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: International Computer and Information Literacy Study (ICILS 2018) Main Study.

OMB Control Number: 1850-0929.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 15,842.

Total Estimated Number of Annual Burden Hours: 9,451.

Abstract: The International Computer and Information Literacy Study (ICILS) is a computer-based international assessment of eighth-grade students' computer and information literacy (CIL) skills that will provide a comparison of U.S. student performance and technology access and use with those of the international peers. ICILS collects data on eighth-grade students' abilities to collect, manage, evaluate, and share digital information; their understanding of issues related to the safe and responsible use of electronic information; on student access to, use of, and engagement with ICT at school and at home; school environments for teaching and learning CIL; and teacher practices and experiences with ICT. The data collected through ICILS will also provide information about the nature and extent of the possible "digital divide" and has the potential to inform understanding of the relationship between technology skills and experience and student performance in other core subject areas. ICILS is conducted by the International Association for the Evaluation of Educational Achievement (IEA), an international collective of research organizations and government agencies that create the assessment framework, assessment, and background questionnaires. In the U.S., the National Center for Education Statistics (NCES) conducts this study. In preparation for the ICILS 2018 main study, NCES conducted a field test from May through June 2017 to evaluate new assessment items and background questions, to ensure practices that promote low exclusion rates, and to ensure that classroom and student sampling procedures proposed for the main study are successful. Recruitment for the main study began in May of 2017. This request is to conduct the ICILS main study data collection in the United States from March through May 2018.

Dated: November 16, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-25196 Filed 11-20-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**[Docket No.: ED–2017–ICCD–0141]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2018 Teaching and Learning International Survey (TALIS 2018) Main Study****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 December 21, 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–0141. 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: 2018 Teaching and Learning International Survey (TALIS 2018) Main Study.*OMB Control Number:* 1850–0888.*Type of Review:* A revision of an existing information collection.*Respondents/Affected Public:* Individuals or Households.*Total Estimated Number of Annual Responses:* 4,368.*Total Estimated Number of Annual Burden Hours:* 5,042.*Abstract:* The Teaching and Learning International Survey (TALIS) is an international survey of teachers and principals that focuses on the working conditions of teachers and the teaching and learning practices in schools. TALIS was first administered in 2008 and is conducted every five years. Having participated in 2013 but not in 2008, the United States will administer TALIS for the second time in 2018. TALIS is sponsored by the Organization for Economic Cooperation and Development (OECD). In the United States, TALIS is conducted by the National Center for Education Statistics (NCES), of the Institute of Education Sciences within the U.S. Department of Education. TALIS 2018 will address teacher training and professional development, teachers' appraisal, school climate, school leadership, teachers' instructional approaches, teachers' pedagogical practices, and their experience with and support for teaching diverse populations. In February 2017, the TALIS 2018 field test was conducted to evaluate newly developed teacher and school questionnaire items and test the survey operations. The recruitment of schools for the 2018 main study sample was approved in September 2016 with the latest change request approved in June 2017 (OMB# 1850–0888 v. 4–6). This request is to conduct the TALIS 2018 main study.

Dated: November 16, 2017.

Kate Mullan,*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017–25195 Filed 11–20–17; 8:45 am]

BILLING CODE 4000–01–P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[EG17–136–000, EG17–137–000, EG17–138–000, EG17–139–000, EG17–140–000, EG17 141–000, EG17–142–000, EG17–143–000, EG17–144–000, EG17–145–000, EG17–146–000, EG17–147–000, EG17–148–000, FC17–5–000]****Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status; Moffett Solar 1, LLC, Techren Solar I LLC, Southampton Solar LLC, Cuyama Solar, LLC, Middle Daisy, LLC, Shoreham Solar Commons LLC, Shoreham Solar Commons Holdings LLC, Golden Hills North Wind, LLC, St. Joseph Energy Center, LLC, Imperial Valley Solar 3, LLC, Thunder Ranch Wind Project, LLC, Scott-II Solar LLC, HD Project One, LLC, Aspa Energias Renovables, S.L.U.**

Take notice that during the month of October 2017, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a)(2017).

Dated: November 15, 2017.

Nathaniel J. Davis, Sr.,*Deputy Secretary.*

[FR Doc. 2017–25154 Filed 11–20–17; 8:45 am]

BILLING CODE 6717–01–P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings #2**

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

Docket Numbers: EC18–20–000.*Applicants:* Bendwind, LLC, DeGreeff DP, LLC, DeGreeffpa, LLC, Groen Wind, LLC, Hillcrest Wind, LLC, Larswind, LLC, Sierra Wind, LLC, TAIR Windfarm, LLC, East Ridge Transmission, LLC.*Description:* Application for Approval Under Section 203 of the Federal Power Act and Request for Expedited Action of Bendwind, LLC, et al.

Filed Date: 11/15/17.

Accession Number: 20171115–5107.

Comments Due: 5 p.m. ET 12/6/17.

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

Docket Numbers: ER15–2236–002.

Applicants: Midwest Power Transmission Arkansas, LLC.

Description: Compliance filing: Compliance Filing, Midwest Power Transmission Arkansas, LLC to be effective 9/21/2015.

Filed Date: 11/15/17.

Accession Number: 20171115–5154.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER15–2237–004.

Applicants: Kanstar Transmission, LLC.

Description: Compliance filing: Compliance Filing, Kanstar Transmission, LLC to be effective 9/21/2015.

Filed Date: 11/15/17.

Accession Number: 20171115–5097.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–294–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) Rate Filing: Filing of a Master JUA for Distribution Underbuild with Allamakee-Clayton to be effective 1/15/2018.

Filed Date: 11/15/17.

Accession Number: 20171115–5092.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–295–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: EKPC NITSA Lock 7 DNR Amd to be effective 10/16/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5132.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–296–000.

Applicants: Phibro Americas LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 12/15/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5152.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–297–000.

Applicants: Enel Stillwater, LLC.

Description: Baseline eTariff Filing: Enel Stillwater, LLC SFA to be effective 11/16/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5180.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–298–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2017–11–15_SA 3062 Ameren-IMEA Switching Agreement to be effective 11/16/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5187.

Comments Due: 5 p.m. ET 12/6/17.

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: November 15, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–25152 Filed 11–20–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–6–000.

Applicants: Southcross Transmission, LP.

Description: Tariff filing per 284.123(b)(2)+(g): Southcross Amended SOC 11–6–17 to be effective 12/1/2017; Filing Type: 1310.

Filed Date: 11/6/17.

Accession Number: 201711065288.

Comments Due: 5 p.m. ET 11/27/17.
284.123(g) Protests Due: 5 p.m. ET 11/5/18.

Docket Number: PR18–7–000.

Applicants: TPL SouthTex Transmission Company LP.

Description: Tariff filing per 284.123(b)(2)+(g): Petition for Rate Approval under Optional Notice Procedures to be effective 11/6/2017; Filing Type: 1310.

Filed Date: 11/6/17.

Accession Number: 201711065299.

Comments Due: 5 p.m. ET 11/27/17.
284.123(g) Protests Due: 5 p.m. ET 11/5/18.

Docket Number: PR18–8–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: Tariff filing per 284.123(b),(e): COH Rates effective 10–27–2017; Filing Type: 980.

Filed Date: 11/13/17.

Accession Number: 201711135010.

Comments/Protests Due: 5 p.m. ET 12/4/17.

Docket Number: PR18–9–000.

Applicants: Columbia Gas of Maryland, Inc.

Description: Tariff filing per 284.123(b),(e): CMD Rates effective 10/27/17.; Filing Type: 980.

Filed Date: 11/13/17.

Accession Number: 201711135011.

Comments/Protests Due: 5 p.m. ET 12/4/17.

Docket Numbers: RP16–900–003.

Applicants: Kinetica Deepwater Express, LLC.

Description: Compliance filing Compliance Filing to be effective 6/1/2016.

Filed Date: 10/30/17.

Accession Number: 20171030–5129.

Comments Due: 5 p.m. ET 11/17/17.

Docket Numbers: RP18–157–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 111317 Negotiated Rates—Mercuria Energy America, Inc. H–7540–89 to be effective 11/10/2017.

Filed Date: 11/13/17.

Accession Number: 20171113–5216.

Comments Due: 5 p.m. ET 11/27/17.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

Dated: November 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–25153 Filed 11–20–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #1**

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

Docket Numbers: EC18–19–000.

Applicants: Wisconsin Public Service Corporation, Wisconsin Power and Light Company, Madison Gas and Electric Company, Forward Energy LLC.

Description: Joint Application for Authorization of Disposition of Jurisdictional Assets Under Section 203 of the Federal Power Act, et al. of Wisconsin Public Service Corporation, et al.

Filed Date: 11/14/17.

Accession Number: 20171114–5148.

Comments Due: 5 p.m. ET 12/5/17.

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

Docket Numbers: ER18–288–000.

Applicants: GridLiance West Transco LLC.

Description: Initial rate filing: Concurrence RS 516 SCE IA GridLiance West Transco LLC to be effective 10/25/2017.

Filed Date: 11/14/17.

Accession Number: 20171114–5109.

Comments Due: 5 p.m. ET 12/5/17.

Docket Numbers: ER18–289–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: Fayetteville CIAC RS 204 Filing to be effective 11/15/2017.

Filed Date: 11/14/17.

Accession Number: 20171114–5118.

Comments Due: 5 p.m. ET 12/5/17.

Docket Numbers: ER18–290–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4840; Queue No. AC2–174 (WMPA) to be effective 10/20/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5019.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–291–000.

Applicants: AEP Oklahoma Transmission Company, Inc.

Description: Compliance filing: AEPOTC RS and SA Baseline to be effective 11/16/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5029.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–292–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Concho Valley EC-Golden

Spread EC IA Second Amend & Restated to be effective 10/30/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5034.

Comments Due: 5 p.m. ET 12/6/17.

Docket Numbers: ER18–293–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4825; Queue AC2–168 (WMPA) to be effective 10/19/2017.

Filed Date: 11/15/17.

Accession Number: 20171115–5072.

Comments Due: 5 p.m. ET 12/6/17.

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: November 15, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–25151 Filed 11–20–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–TRI–2017–0057; FRL–9970–79–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Toxic Chemical Release Reporting and Renewals of Form R, Form A and Form R Schedule 1 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), “Toxic Chemical Release Reporting and Renewals of Form R, Form A and Form R Schedule 1” (EPA ICR No.1363.26, OMB Control No. 2025–0009) to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2017. Public comments were previously requested via the **Federal Register** (82 FR 24702) on May 30, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 21, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–TRI–2017–0057 to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to oir_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Colby Lintner, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: Pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act

(EPCRA), certain facilities that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State or Tribal officials toxic chemical release forms containing information specified by EPA. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals. EPA compiles and stores these reports in a publicly accessible database known as the Toxics Release Inventory (TRI).

Form Numbers: None.

Respondents/affected entities:

Facilities that submit annual reports under section 313 of EPCRA and section 6607 of PPA.

Respondent's obligation to respond: Mandatory (EPCRA Section 313).

Estimated number of respondents: 21,856.

Frequency of response: Annual.

Total estimated burden: 3,597,275 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$199,217,089 (per year), includes \$0 in annualized capital investment or maintenance and operational costs.

Changes in the estimates: There is an increase of 41,277 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects a slight increase in the number of facilities reporting to TRI.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2017-25161 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9970-44-OARM]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Nominations to the National Advisory Council for Environmental Policy and Technology.

* Nomination Deadline: January 3, 2018.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates representing the following sectors: Academia; state,

local, and tribal governments; business and industry; and, non-governmental organizations.

Potential vacancies are anticipated to be filled in April, 2018. Sources in addition to this **Federal Register** Notice may be utilized in the solicitation of nominees.

FOR FURTHER INFORMATION CONTACT:

Eugene Green, Designated Federal Officer, U.S. EPA; telephone (202) 564-2432; fax (202) 564-8129; email green.eugene@epa.gov.

SUPPLEMENTARY INFORMATION:

Background: The National Advisory Council for Environmental Policy and Technology (NACEPT) is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463. EPA established NACEPT in 1988 to provide advice to the EPA Administrator on a broad range of environmental policy, management and technology issues. Members serve as representatives from academia, industry, non-governmental organizations, and state, local, and tribal governments. Members are appointed by the EPA Administrator for two year terms. The Council usually meets 2-3 times annually face-to-face or via video/teleconference and the average workload for the members is approximately 10 to 15 hours per month. Members serve on the Council in a voluntary capacity. However, EPA provides reimbursement for travel and incidental expenses associated with official government business. EPA is seeking nominations from candidates representing all sectors noted above. Within these sectors, EPA encourages nominees with a strong background in the following areas to apply: Data management/monitoring, social science, economic initiatives, public health, biodiversity, community sustainability, environmental policy/management, and environmental justice. Nominees will be considered according to the mandates of the Federal Advisory Committee Act (FACA), which requires committees to maintain diversity across a broad range of constituencies, sectors, groups, and geographical locations. EPA values and embraces diversity. In an effort to obtain nominations of diverse candidates, EPA welcomes nominations from women and men of all racial and ethnic groups, as well as persons with disabilities. Please note that interested candidates may self-nominate.

The following criteria will be used to evaluate nominees:

—Professional knowledge of environmental policy, management, and technology related issues.

—Demonstrated ability to assess and analyze environmental challenges with objectivity and integrity.

—Middle/Senior-level leadership experience that fills a current need on the Council.

—Excellent interpersonal, oral and written communication skills, and consensus-building skills.

—Ability to volunteer approximately 10 to 15 hours per month to the Council's activities, including participation in face-to-face meetings, video/teleconference meetings and preparation of documents for the Council's reports and advice letters.

EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to two year terms.

Prospective candidates interested in being considered for an appointment to serve on the Council, should submit the following items to process your nomination package: Nomination packages must include a brief statement of interest, resume, or curriculum vitae (CV), and a short biography (no more than two paragraphs) describing your professional and educational qualifications, including a list of relevant activities and any current or previous service on advisory committees. The statement of interest, resume or CV, and short biography should include the candidate's full name, name and address of current organization, position title, email address, and daytime telephone number(s).

In preparing your statement of interest, please describe how your background, knowledge, and experience will bring value to the work of the committee, and how these qualifications would contribute to the overall diversity of the Council. Also, be sure to describe any previous involvement with the Agency through employment, grant funding and/or contracting sources.

To help the Agency in evaluating the effectiveness of its outreach efforts, also tell us how you learned of this opportunity in your statement of interest (cover letter).

Anyone interested in being considered for nomination is encouraged to submit a nomination (application) package by the submission deadline on January 3, 2018. To expedite the process, it is preferable to submit the nomination package with the required information/documents electronically (Word/PDF) to green.eugene@epa.gov. Please reference: "NACEPT 2018 Membership Nomination Package for (insert candidate's name)" in the subject heading.

Dated: October 20, 2017.

Eugene Green,

Designated Federal Officer.

[FR Doc. 2017-25188 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9970-47-OARM]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations to the Good Neighbor Environmental Board.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Good Neighbor Environmental Board (GNEB). Vacancies are expected to be filled by April 1, 2018, but nominees are strongly encouraged to submit their nomination information as soon as possible. Sources in addition to this **Federal Register** Notice may also be utilized in the solicitation of nominees.

SUPPLEMENTARY INFORMATION:

Background: GNEB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463. GNEB was created in 1992 by the Enterprise for the Americas Initiative Act, Public Law 102-532, 7 U.S.C. Section 5404. Implementing authority was delegated to the Administrator of EPA under Executive Order 12916. The GNEB is charged by statute with submitting an annual report to the President on environmental and infrastructure issues in the U.S.-Mexico border region. The statute creating the GNEB calls for it to include representatives from U.S. Government agencies; the governments of the states of Arizona, California, New Mexico and Texas; and private organizations with experience in environmental and infrastructure issues along the U.S.-Mexico border. Members are appointed by the EPA Administrator for two year terms with the possibility of reappointment. The GNEB meets approximately three times annually either in person or via video/teleconference. The average workload for committee members is approximately 10 to 15 hours per month. Members serve on the committees in a voluntary capacity. Although EPA is unable to offer compensation or an honorarium, members may receive travel and per diem allowances, according to

applicable federal travel regulations. The EPA is seeking nominations from a variety of nongovernmental organizations in the U.S.-Mexico border region, including representatives from business and industry, academia, environmental groups, public health organizations, and other sectors. EPA is also seeking representatives from state, local, and tribal governments. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The following criteria will be used to evaluate nominees:

- Background and experience that would help members contribute to the diversity of perspectives on the committee (*e.g.*, geographic, economic, social, cultural, educational, and other considerations).
- Representative of a sector or group that helps to shape border region environmental policy, or representatives of a group that is affected by border region environmental policy.
- Extensive professional knowledge and experience with the particular issues that the GNEB examines (*i.e.* environmental and infrastructure issues along the U.S.-Mexico border), including the bi-national dimension of these issues.
- Senior level experience dealing with environmental and infrastructure issues in the U.S.-Mexico border region.
- Possesses a demonstrated ability to work in a consensus building process with a wide range of representatives from diverse constituencies.
- Ability to contribute approximately 10 to 15 hours per month to the GNEB's activities, including face-to-face meetings, conference calls and participation in the development of the GNEB's annual report to the President and occasional advice letters.

Nominees may self-nominate. If you are interested in serving on the GNEB, please submit the following information:

- Nominations must include a brief statement of interest, a resume or curriculum vitae, and a short biography describing your professional and educational qualifications, including a list of relevant activities and any current or previous service on advisory committees. The statement of interest, resume, curriculum vitae, or short biography should include the candidate's name, name and address of current organization, position title, email address, and daytime telephone number(s). In preparing your statement of interest, please describe how your background, knowledge, and experience

will bring value to the work of the Board, and how these qualifications would contribute to the overall diversity of the GNEB. Also, please describe any previous involvement with EPA through employment, grant funding and/or contracting sources.

- Candidates from the academic sector must also provide a letter of recommendation authorizing the nominee to represent their institution.
- Please be advised that federally registered lobbyists are not permitted to serve on federal advisory committees.

ADDRESSES: Submit nominations to Mark Joyce, Acting Designated Federal Officer, (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with the subject line GNEB Nomination 2018 to joyce.mark@epa.gov.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Acting Designated Federal Officer, U.S. EPA, telephone 202-564-2130.

Dated: October 24, 2017.

Mark Joyce,

Acting Designated Federal Officer.

[FR Doc. 2017-25190 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[Region 4 Library; FRL-9970-91-Region 4]

Notice of Change to Operating Hours

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this notice to advise the public that the Region 4 Library will change its operating hours from 8:00 a.m.-4:30 p.m. to 9:00 a.m.-3:00 p.m., Monday through Friday. The library will remain closed on Federal holidays.

DATES: The new operating hours for the Region 4 Library will be effective November 1, 2017.

FOR FURTHER INFORMATION CONTACT: The Region 4 Federal Library Managers Shayla Patillo at (404) 562-8385 or LouAnn Gross at (404) 562-9642.

Dated: October 27, 2017.

Kristy H. Eubanks,

Assistant Regional Administrator, Region 4.

[FR Doc. 2017-25194 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OEI-2017-0380; FRL-9971-06-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (Renewal)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (EPA ICR No. 2434.75, OMB Control No. 2010-0042) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2017. Public comments were previously requested via the **Federal Register** (82 FR 33908) on July 21, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 21, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OEI-2017-0380, to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to oir_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Courtney Kerwin, Office of Environmental Information, Regulatory

Support Division, (2821T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202-566-1669; email address: kerwin.courtney@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improving service delivery. Qualitative feedback includes information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions.

- The collections are voluntary.
- The collections are low-burden for respondents and are low-cost for both the respondents and the Federal Government.
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies.

- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future.

- Personally identifiable information (PII) is collected only to the extent necessary and is not retained.

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency.

- Information gathered will not be used for the purpose of substantially informing influential policy decisions.

- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Respondents/affected entities:

Individuals and Households; Businesses and Organizations; State, Local or Tribal Government.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 120,000 (total).

Frequency of response: Once per request.

Total estimated burden: 30,000 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$0 (per year), includes \$0 annualized capital or operation & maintenance costs.

Changes in the estimates: There is increase of 10,000 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase in hours is due to the increase in the use of surveys by the Agency.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017-25162 Filed 11-20-17; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17-1086]

Temporary Lift of Filing Freeze on Full Power and Class A Minor Modification Applications That Expand a Station's Contour

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the Media Bureau is temporarily lifting the freeze on filing minor modification applications that expand

the contour of full power and Class A stations, from Tuesday, November 28 through Thursday, December 7, 2017.

DATES: November 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Joyce Bernstein, *Joyce.Bernstein@fcc.gov*, or Kevin Harding, *Kevin.Harding@fcc.gov*, Video Division, Media Bureau, Federal Communications Commission.

SUPPLEMENTARY INFORMATION:

On April 5, 2013, in light of the then forthcoming broadcast incentive auction, the Media Bureau issued its April 2013 Freeze Public Notice announcing that it would not accept for filing minor modification applications for changes to existing television service areas that would increase a full power television station's noise-limited contour or a Class A station's protected contour beyond the area resulting from the station's authorized facilities as of that date, and would not process pending applications at variance with these limitations. Auction 1000, which was conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, was completed on April 13, 2017, and stations that were assigned new channels in connection with the auction have had an opportunity to file for alternate channels and/or expanded facilities.

The Media Bureau is temporarily lifting the limitations imposed by the April 2013 Freeze Public Notice for full power and Class A stations that were not assigned a new channel, beginning on Tuesday, November 28, 2017. The freeze will be reimposed at 11:59 p.m. EST on Thursday, December 7, 2017. The Media Bureau will also process minor modification applications at variance with the freeze limitations that have been pending since April 5, 2013.

Applications submitted during this time period will be processed on a first come/first served basis. Applications proposing to change a station's channel will not be accepted for filing.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2017-25170 Filed 11-20-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0790, 3060-0813]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before January 22, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418-2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by

the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0790.

Title: Section 68.110 (c), Availability of Inside Wiring Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 200 respondents; 1,200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response:

Recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory.

Providers of wireline telecommunications services that willfully or repeatedly fail to comply with this rule are subject to forfeitures under 47 CFR 1.80. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154, 201-205, 218, 220 and 405 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,200 hours.

Total Annual Cost: \$5,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality:

The Commission is not requesting that respondents submit any confidential trade secrets or proprietary information to the FCC.

Needs and Uses: Section 68.110(c) requires that any available technical information concerning carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records, shall be provided by the telephone company upon request of the building owner or agent thereof. The

provider of wireline telecommunications services may charge the building owner a reasonable fee for this service, which shall not exceed the cost involved in locating and copying the documents. In the alternative, the provider may make these documents available for review and copying by the building owner or his agent. In this case, the wireline telecommunications carrier may charge a reasonable fee, which shall not exceed the cost involved in making the documents available, and may also require the building owner or his agent to pay a deposit to guarantee the documents' return. The information is needed so that building owners may choose to contract with an installer of their choice on inside wiring maintenance and installation services to modify existing wiring or assist with the installation of additional inside wiring.

OMB Control Number: 3060-0813.

Title: Section 20.18, Enhanced 911

Emergency Calling Systems.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other-for-profit and State, local and tribal governments.

Number of Respondents and Responses: 877 Respondents; 744 Responses.

Estimated Time per Response: 0.5-1 hours.

Frequency of Response: One-time third party disclosure requirements.

Obligation to Respond: Mandatory.

Statutory authority for this information collection is contained in 47 U.S.C. Sections 151, 152, 154(i), 154(j), 154(o), 251(e), 303(b), 303(g), 303(r), 316, and 403

Total Annual Burden: 698 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The information collection entailed in a Public Safety Answering Point (PSAP) request is necessary to initiate E911 service, and serves as notice to the CMRS provider. The notification requirement on PSAPs will be used by the carriers to verify that PSAPs who have the technical capability to use the data to the caller's benefit. If the carrier challenges the validity of the request, the request will be deemed valid if the PSAP making the request provides the following information:

A. *Cost Recovery.* The PSAP must demonstrate that a mechanism is in place by which the PSAP will recover

its costs of the facilities and equipment necessary to receive and utilize the E911 data elements;

B. *Necessary Equipment.* The PSAP must provide evidence that it has ordered the equipment necessary to receive and utilize the E911 data elements; and

C. *Necessary Facilities.* The PSAP must demonstrate that it has made a timely request to the appropriate local exchange carrier for the necessary trunking and other facilities to enable E911 data to be transmitted to the PSAP.

In the alternative, the PSAP may demonstrate that a funding mechanism is in place, that it is E911 capable using a Non-Call Associated Signaling technology, and that it has made a timely request to the appropriate LEC for the necessary ALI database upgrade.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017-24614 Filed 11-20-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 5, 2017.

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

1. *Jutta Hansen Revocable Trust No. 2, Whitefish Bay, Wisconsin, Jutta Hansen Trustee; together with Tyler J. Swahn, Roseville, California; Melanie K. Hansen Trust No. 2, Bettendorf, Iowa, Melanie K. Hansen, Bettendorf, Iowa Trustee; Melanie K. Hansen Trust No. 1, Bettendorf, Iowa, Melanie K. Hansen, Bettendorf, Iowa, Trustee; Cooper T.*

Fergus, Whitefish Bay, Wisconsin; Nolan W. Fergus, Whitefish Bay, Wisconsin; Christian T. Hansen, Grand Mound, Iowa; Kiersten A. Hansen, Grand Mound, Iowa; Lieza C. Hansen, Grand Mound, Iowa; and one minor child; to acquire voting shares of DeWitt Bancorp, Inc. and thereby indirectly acquire DeWitt Bank & Trust Co., both of DeWitt, Iowa.

2. *Jeffrey A. Graves, Durant, Iowa, individually, and acting in concert with Carla Graves, Durant, Iowa; to acquire voting shares of DeWitt Bancorp, Inc. and thereby indirectly control DeWitt Bank & Trust Co., both of DeWitt, Iowa.*

Board of Governors of the Federal Reserve System, November 15, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-25107 Filed 11-20-17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 2017.

A. *Federal Reserve Bank of Boston* (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210-2204. Comments can also be sent electronically to BOS.SRC.Applications.Comments@bos.frb.org:

1. 1831 Bancorp, MHC and 1831 Bancorp, Inc., both of Dedham, Massachusetts; to acquire an indirect 20 percent ownership interest in Plimoth Trust Company LLC, Plymouth, Massachusetts, and thereby engage in trust company activities, financial and investment advisory activities and employee benefits consulting services pursuant to sections 225.28(b)(5), (6) and (9)(ii).

Board of Governors of the Federal Reserve System, November 15, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-25106 Filed 11-20-17; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-8066-N]

RIN 0938-AT06

Medicare Program; CY 2018 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This annual notice announces Medicare's Hospital Insurance (Part A) premium for uninsured enrollees in calendar year (CY) 2018. This premium is paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A (hereafter known as the "uninsured aged") and by certain disabled individuals who have exhausted other entitlement. The monthly Part A premium for the 12 months beginning January 1, 2018 for these individuals will be \$422. The premium for certain other individuals as described in this notice will be \$232.

DATES: *Effective Date:* This notice is effective on January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Clare McFarland, (410) 786 6390.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare Hospital Insurance Program (Medicare Part A), subject to payment of a monthly premium, of certain persons aged 65 and older who are uninsured under the Old-Age, Survivors, and Disability Insurance (OASDI) program or the

Railroad Retirement Act and do not otherwise meet the requirements for entitlement to Medicare Part A. These "uninsured aged" individuals are uninsured under the OASDI program or the Railroad Retirement Act, because they do not have 40 quarters of coverage under Title II of the Act (or are/were not married to someone who did). (Persons insured under the OASDI program or the Railroad Retirement Act and certain others do not have to pay premiums for Medicare Part A.)

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium for certain disabled individuals who have exhausted other entitlement. These are individuals who were entitled to coverage due to a disabling impairment under section 226(b) of the Act, but who are no longer entitled to disability benefits and free Medicare Part A coverage because they have gone back to work and their earnings exceed the statutorily defined "substantial gainful activity" amount (section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the provisions relating to premiums under section 1818(d) through section 1818(f) of the Act for the aged will also apply to certain disabled individuals as described above.

Section 1818(d)(1) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services incurred in the upcoming calendar year (CY) (including the associated administrative costs) on behalf of individuals aged 65 and over who will be entitled to benefits under Medicare Part A. We must then determine the monthly actuarial rate for the following year (the per capita amount estimated above divided by 12) and publish the dollar amount for the monthly premium in the succeeding CY. If the premium is not a multiple of \$1, the premium is rounded to the nearest multiple of \$1 (or, if it is a multiple of 50 cents but not of \$1, it is rounded to the next highest \$1).

Section 13508 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) amended section 1818(d) of the Act to provide for a reduction in the premium amount for certain voluntary enrollees (section 1818 and section 1818A of the Act). The reduction applies to an individual who is eligible to buy into the Medicare Part A program and who, as of the last day of the previous month:

- Had at least 30 quarters of coverage under Title II of the Act;
- Was married, and had been married for the previous 1 year period, to a

person who had at least 30 quarters of coverage;

- Had been married to a person for at least 1 year at the time of the person's death if, at the time of death, the person had at least 30 quarters of coverage; or
- Is divorced from a person and had been married to the person for at least 10 years at the time of the divorce if, at the time of the divorce, the person had at least 30 quarters of coverage.

Section 1818(d)(4)(A) of the Act specifies that the premium that these individuals will pay for CY 2018 will be equal to the premium for uninsured aged enrollees reduced by 45 percent.

II. Monthly Premium Amount for CY 2018

The monthly premium for the uninsured aged and certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 2018, is \$422.

The monthly premium for the individuals eligible under section 1818(d)(4)(B) of the Act, and therefore, subject to the 45 percent reduction in the monthly premium, is \$232.

III. Monthly Premium Rate Calculation

As discussed in section I of this notice, the monthly Medicare Part A premium is equal to the estimated monthly actuarial rate for CY 2018 rounded to the nearest multiple of \$1 and equals one-twelfth of the average per capita amount, which is determined by projecting the number of Medicare Part A enrollees aged 65 years and over as well as the benefits and administrative costs that will be incurred on their behalf.

The steps involved in projecting these future costs to the Federal Hospital Insurance Trust Fund are:

- Establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base;
- Projecting increases in payment amounts for each of the service types; and
- Projecting increases in administrative costs.

We base our projections for CY 2018 on—(1) current historical data; and (2) projection assumptions derived from current law and the Mid-Session Review of the President's Fiscal Year 2018 Budget.

We estimate that in CY 2018, 50,295,843 people aged 65 years and over will be entitled to (enrolled in) benefits (without premium payment) and that they will incur about \$254.518 billion in benefits and related administrative costs. Thus, the estimated monthly average per capita

amount is \$421.70 and the monthly premium is \$422. Subsequently, the full monthly premium reduced by 45 percent is \$232.

IV. Costs to Beneficiaries

The CY 2018 premium of \$422 is approximately 2 percent higher than the CY 2017 premium of \$413. We estimate that approximately 668,000 enrollees will voluntarily enroll in Medicare Part A, by paying the full premium. We estimate that over 90 percent of these individuals will have their Part A premium paid for by states, since they are enrolled in the Qualified Medicare Beneficiary Program (a Medicaid program which helps certain low-income individuals with Medicare premium and cost-sharing liability). Furthermore, the CY 2018 reduced premium of \$232 is approximately 2 percent higher than the CY 2017 premium of \$227. We estimate an additional 71,000 enrollees will pay the reduced premium. Therefore, we estimate that the total aggregate cost to enrollees paying these premiums in CY 2018, compared to the amount that they paid in CY 2017, will be about \$76 million.

V. Waiver of Proposed Notice and Comment Period

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment prior to a rule taking effect in accordance with section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. However, we believe that the policies being publicized in this document do not constitute agency rulemaking. Rather, the statute requires that the agency determine the applicable premium amount for each calendar year in accordance with the statutory formula, and we are simply notifying the public of the changes to the Medicare Part A premiums for CY 2018. To the extent any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice, which are not subject to notice and comment rulemaking under the APA.

To the extent that notice and comment rulemaking would otherwise apply, we find good cause to waive this requirement. Under the APA, we may waive notice and public procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public

interest. We believe that notice and comment rulemaking for this notification of Medicare Part A premiums for CY 2018 is unnecessary because of the lack of CMS discretion in the statutory formula that is used to calculate the premium and the solely ministerial function that this notice serves. Therefore, we find good cause to waive notice and comment procedures, if such procedures are required at all.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Impact Statement

A. Statement of Need

Section 1818(d) of the Act requires the Secretary of the Department of Health and Human Services (the Secretary) during September of each year to determine and publish the amount to be paid, on an average per capita basis, from the Federal Hospital Insurance Trust Fund for services incurred in the impending CY (including the associated administrative costs) on behalf of individuals aged 65 and over who will be entitled to benefits under Medicare Part A.

B. Overall Impact

We have examined the impacts of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)) and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and

equity). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as “economically significant”); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. As stated in section IV of this notice, we estimate that the overall effect of the changes in the Part A premium will be a cost to voluntary enrollees (section 1818 and section 1818A of the Act) of about \$76 million. As a result, this notice is non-economically significant under section 3(f)(1) of Executive Order 12866. In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$7.5 million to \$38.5 million in any 1 year (for details, see the Small Business Administration’s Web site at http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf).

Individuals and states are not included in the definition of a small entity. As discussed above, this annual notice announces the Medicare Part A premiums for CY 2018. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Social Security Act (Act) requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of

section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. As discussed above, we are not preparing an analysis for section 1102(b) of the Act, because the Secretary has determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2017, that threshold is approximately \$148 million. This notice does not impose mandates that will have a consequential effect of \$148 million or more on state, local, or tribal governments or on the private sector.

Executive Order 13771, titled “Reducing Regulation and Controlling Regulatory Costs,” was issued on January 30, 2017 (82 FR 9339, February 3, 2017). It has been determined that this notice is a transfer notice that does not impose more than de minimis costs and thus is not a regulatory action for the purposes of E.O. 13771.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have Federalism implications.

Although this notice merely announces Medicare’s Part A premiums for CY 2018 and does not constitute a substantive rule, we nevertheless prepared this Impact Statement in the interest of ensuring that the impacts of this notice are fully understood.

Dated: October 27, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: November 1, 2017.

Eric D. Hargan,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017–24912 Filed 11–17–17; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–8065–N]

RIN 0938–AT05

Medicare Program; CY 2018 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year (CY) 2018 under Medicare’s Hospital Insurance Program (Medicare Part A). The Medicare statute specifies the formulae used to determine these amounts. For CY 2018, the inpatient hospital deductible will be \$1,340. The daily coinsurance amounts for CY 2018 will be: \$335 for the 61st through 90th day of hospitalization in a benefit period; \$670 for lifetime reserve days; and \$167.50 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

DATES: *Effective Date:* This notice is effective on January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Clare McFarland, (410) 786–6390 for general information. Gregory J. Savord, (410) 786–1521 for case-mix analysis.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires the Secretary of the Department of Health and Human Services (the Secretary) to determine and publish each year the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year (CY).

II. Computing the Inpatient Hospital Deductible for CY 2018

Section 1813(b) of the Act prescribes the method for computing the amount of the inpatient hospital deductible. The inpatient hospital deductible is an amount equal to the inpatient hospital deductible for the preceding CY, adjusted by our best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B) of the Act) used for updating the payment rates to hospitals for discharges in the fiscal year (FY) that begins on October 1 of the same preceding CY, and adjusted to reflect changes in real case-mix. The adjustment to reflect real case-mix is determined on the basis of the most recent case-mix data available. The amount determined under this formula is rounded to the nearest multiple of \$4 (or, if midway between two multiples of \$4, to the next higher multiple of \$4).

Under section 1886(b)(3)(B)(i)(XX) of the Act, the percentage increase used to update the payment rates for FY 2018 for hospitals paid under the inpatient prospective payment system is the market basket percentage increase, otherwise known as the market basket update, reduced by 0.75 percentage points (see section 1886(b)(3)(B)(xii)(V) of the Act), and an adjustment based on changes in the economy-wide productivity (the multifactor productivity (MFP) adjustment) (see section 1886(b)(3)(B)(xi)(II) of the Act). Under section 1886(b)(3)(B)(viii) of the Act, for FY 2018, the applicable percentage increase for hospitals that do not submit quality data as specified by the Secretary is reduced by one quarter of the market basket update. We are estimating that after accounting for those hospitals receiving the lower market basket update in the payment-weighted average update, the calculated deductible will not be affected, since the majority of hospitals submit quality data and receive the full market basket update. Section 1886(b)(3)(B)(ix) of the Act requires that any hospital that is not a meaningful electronic health record (EHR) user (as defined in section 1886(n)(3) of the Act) will have three-quarters of the market basket update reduced by 100 percent for FY 2017 and each subsequent fiscal year. We are estimating that after accounting for these hospitals receiving the lower market basket update, the calculated deductible will not be affected, since the majority of hospitals are meaningful EHR users and are expected to receive the full market basket update.

Under section 1886 of the Act, the percentage increase used to update the

payment rates for FY 2018 for hospitals excluded from the inpatient prospective payment system is as follows:

- The percentage increase for long term care hospitals is 1 percent (see sections 1886(m)(3)(A) and 1886(m)(4)(F) of the Act). In addition, these hospitals may also be impacted by the quality reporting adjustments and the site-neutral payment rates (see sections 1886(m)(5) and 1886(m)(6) of the Act).

- The percentage increase for inpatient rehabilitation facilities is 1 percent (see sections 1886(j)(3)(C) and 1886(j)(3)(D)(v) of the Act). In addition, these hospitals may also be impacted by the quality reporting adjustments (see section 1886(j)(7) of the Act).

- The percentage increase used to update the payment rate for inpatient psychiatric facilities is the market basket percentage increase reduced by 0.75 percentage points and the MFP adjustment (see sections 1886(s)(2)(A)(i), 1886(s)(2)(A)(ii), and 1886(s)(3)(E) of the Act). In addition, these hospitals may also be impacted by the quality reporting adjustments (see section 1886(s)(4) of the Act).

- The percentage increase for other types of hospitals excluded from the inpatient hospital prospective payment system (cancer hospitals, children’s hospitals, and hospitals located outside the 50 States, the District of Columbia, and Puerto Rico) is the market basket percentage increase (see section 1886(b)(3)(B)(ii)(VIII) of the Act).

The Inpatient Prospective Payment System market basket percentage increase for FY 2018 is 2.7 percent and the MFP adjustment is 0.6 percentage point, as announced in the final rule that appeared in the **Federal Register** on August 14, 2017 entitled, “Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2018 Rates” (82 FR 37990). Therefore, the percentage increase for hospitals paid under the inpatient prospective payment system that submit quality data and are meaningful EHR users is 1.35 percent (that is, the FY 2018 market basket update of 2.7 percent less the MFP

adjustment of 0.6 percentage point and less 0.75 percentage point). The average payment percentage increase for hospitals excluded from the inpatient prospective payment system is 1.38 percent. This average includes long term care hospitals, inpatient rehabilitation facilities, and other hospitals excluded from the inpatient prospective payment system. Weighting these percentages in accordance with payment volume, our best estimate of the payment-weighted average of the increases in the payment rates for FY 2018 is 1.35 percent.

To develop the adjustment to reflect changes in real case-mix, we first calculated an average case-mix for each hospital that reflects the relative costliness of that hospital’s mix of cases compared to those of other hospitals. We then computed the change in average case-mix for hospitals paid under the Medicare inpatient prospective payment system in FY 2017 compared to FY 2016. (We excluded from this calculation hospitals whose payments are not based on the inpatient prospective payment system because their payments are based on alternate prospective payment systems or reasonable costs.) We used Medicare bills from prospective payment hospitals that we received as of July 2017. These bills represent a total of about 7.5 million Medicare discharges for FY 2017 and provide the most recent case-mix data available at this time. Based on these bills, the change in average case-mix in FY 2017 is –0.09 percent. Based on these bills and past experience, we expect the overall case mix change to be 0.4 percent as the year progresses and more FY 2017 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be adjusted only by that portion of the case-mix change that is determined to be real. Real case-mix is that portion of case-mix that is due to changes in the mix of cases in the hospital and not due to coding optimization. We expect that all of the change in average case-mix for FY 2017 will be real and estimate that this change will be 0.4 percent.

Thus as stated above, the estimate of the payment-weighted average of the

applicable percentage increases used for updating the payment rates is 1.35 percent, and the real case-mix adjustment factor for the deductible is 0.4 percent. Therefore, using the statutory formula as stated in section 1813(b) of the Act, we calculate the inpatient hospital deductible for services furnished in CY 2018 to be \$1,340. This deductible amount is determined by multiplying \$1,316 (the inpatient hospital deductible for CY 2017 (81 FR 80060)) by the payment-weighted average increase in the payment rates of 1.0135 multiplied by the increase in real case-mix of 1.004, which equals \$1,339.10 and is rounded to \$1,340.

III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for CY 2018

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the inpatient hospital deductible for services furnished in the same CY. The increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in CY 2018, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th day of hospitalization in a benefit period will be \$335 (one-fourth of the inpatient hospital deductible as stated in section 1813(a)(1)(A) of the Act); the daily coinsurance for lifetime reserve days will be \$670 (one-half of the inpatient hospital deductible as stated in section 1813(a)(1)(B) of the Act); and the daily coinsurance for the 21st through 100th day of extended care services in a skilled nursing facility (SNF) in a benefit period will be \$167.50 (one-eighth of the inpatient hospital deductible as stated in section 1813(a)(3) of the Act).

IV. Cost to Medicare Beneficiaries

The Table below summarizes the deductible and coinsurance amounts for CYs 2017 and 2018, as well as the number of each that is estimated to be paid.

PART A DEDUCTIBLE AND COINSURANCE AMOUNTS FOR CALENDAR YEARS 2017 AND 2018

Type of cost sharing	Value		Number paid (in millions)	
	2017	2018	2017	2018
Inpatient hospital deductible	\$1,316	\$1,340	7.16	7.23
Daily coinsurance for 61st–90th Day	329	335	1.75	1.77
Daily coinsurance for lifetime reserve days	658	670	0.86	0.87
SNF coinsurance	164.50	167.50	37.21	38.02

The estimated total increase in costs to beneficiaries is about \$550 million (rounded to the nearest \$10 million) due to: (1) The increase in the deductible and coinsurance amounts; and (2) the increase in the number of deductibles and daily coinsurance amounts paid. We determine the increase in cost to beneficiaries by calculating the difference between the 2017 and 2018 deductible and coinsurance amounts multiplied by the estimated increase in the number of deductible and coinsurance amounts paid.

V. Waiver of Proposed Notice and Comment Period

Section 1813(b)(2) of the Act requires publication of the inpatient hospital deductible and all coinsurance amounts—the hospital and extended care services coinsurance amounts—between September 1 and September 15 of the year preceding the year to which they will apply. We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment prior to a rule taking effect in accordance with section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. However, we believe that the policies being publicized in this document do not constitute agency rulemaking. Rather, the statute requires that the agency determine and publish the inpatient hospital deductible and hospital and extended care services coinsurance amounts for each calendar year in accordance with the statutory formulae, and we are simply notifying the public of the changes to the Medicare Part A deductible and coinsurance amounts for CY 2018. To the extent any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice, which are not subject to notice and comment rulemaking under the APA.

To the extent that notice and comment rulemaking would otherwise apply, we find good cause to waive this requirement. Under the APA, we may waive notice and public procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary here, because this document does not propose to make any substantive changes to the policies or methodologies, but simply applies the formulae used to calculate the inpatient

hospital deductible and hospital and extended care services coinsurance amounts as statutorily directed and we can exercise no discretion in following the formulae. Moreover, the statute establishes the time period for which the deductible and coinsurance amounts will apply, so we also do not have any discretion in that regard. Therefore, we find good cause to waive notice and comment procedures, if such procedures are required at all.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Impact Analysis

A. Statement of Need

Section 1813(b)(2) of the Act requires the Secretary to publish, between September 1 and September 15 of each year, the amounts of the inpatient hospital deductible and hospital and extended care services coinsurance applicable for services furnished in the following CY.

B. Overall Impact

We have examined the impacts of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)) and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual

effect on the economy of \$100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as “economically significant”); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). As stated in section IV of this notice, we estimate that the total increase in costs to beneficiaries associated with this notice is about \$550 million due to: (1) The increase in the deductible and coinsurance amounts; and (2) the increase in the number of deductibles and daily coinsurance amounts paid. As a result, this notice is economically significant under section 3(f)(1) of Executive Order 12866. In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$7.5 million to \$38.5 million in any 1 year (for details, see the Small Business Administration's Web site at http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf). Individuals and states are not included in the definition of a small entity. As discussed above, this annual notice announces the Medicare Part A deductible and coinsurance amounts for CY 2018. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural

hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. As discussed above, we are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2017, that threshold is approximately \$148 million. This notice does not impose mandates that will have a consequential effect of \$148 million or more on state, local, or tribal governments or on the private sector.

Executive Order 13771, titled "Reducing Regulation and Controlling Regulatory Costs," was issued on January 30, 2017 (82 FR 9339, February 3, 2017). It has been determined that this notice is a transfer notice that does not impose more than de minimis costs and thus is not a regulatory action for the purposes of E.O. 13771.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have Federalism implications.

Although this notice merely announces the Medicare Part A deductible and coinsurance amounts for CY 2018 and does not constitute a substantive rule, we nevertheless prepared this Impact Analysis in the interest of ensuring that the impacts of this notice are fully understood.

Dated: October 27, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: November 1, 2017.

Eric D. Hargan,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017-24913 Filed 11-17-17; 4:15 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-8067-N]

RIN 0938-AS72

Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2018

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program beginning January 1, 2018. In addition, this notice announces the monthly premium for aged and disabled beneficiaries, the deductible for 2018, and the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts. The monthly actuarial rates for 2018 are \$261.90 for aged enrollees and \$295.00 for disabled enrollees. The standard monthly Part B premium rate for all enrollees for 2018 is \$134.00, which is equal to 50 percent of the monthly actuarial rate for aged enrollees (or approximately 25 percent of the expected average total cost of Part B coverage for aged enrollees) plus \$3.00. (The 2017 standard premium rate was \$134.00, which included the \$3.00 repayment amount.) The Part B deductible for 2018 is \$183.00 for all Part B beneficiaries. If a beneficiary has to pay an income-related monthly adjustment, he or she will have to pay a total monthly premium of about 35, 50, 65, or 80 percent of the total cost of Part B coverage plus \$4.20, \$6.00, \$7.80, or \$9.60.

DATES: *Effective Date:* January 1, 2018.

FOR FURTHER INFORMATION CONTACT: M. Kent Clemens, (410) 786-6391.

SUPPLEMENTARY INFORMATION:

I. Background

Part B is the voluntary portion of the Medicare program that pays all or part of the costs for physicians' services; outpatient hospital services; certain home health services; services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities; and certain other medical and health services not covered by Medicare Part A, Hospital Insurance. Medicare Part B

is available to individuals who are entitled to Medicare Part A, as well as to U.S. residents who have attained age 65 and are citizens and to aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. Part B requires enrollment and payment of monthly premiums, as described in 42 CFR part 407, subpart B, and part 408, respectively. The premiums paid by (or on behalf of) all enrollees fund approximately one-fourth of the total incurred costs, and transfers from the general fund of the Treasury pay approximately three-fourths of these costs.

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1839 of the Social Security Act (the Act) to announce the Part B monthly actuarial rates for aged and disabled beneficiaries as well as the monthly Part B premium. The Part B annual deductible is included because its determination is directly linked to the aged actuarial rate.

The monthly actuarial rates for aged and disabled enrollees are used to determine the correct amount of general revenue financing per beneficiary each month. These amounts, according to actuarial estimates, will equal, respectively, one-half of the expected average monthly cost of Part B for each aged enrollee (age 65 or over) and one-half of the expected average monthly cost of Part B for each disabled enrollee (under age 65).

The Part B deductible to be paid by enrollees is also announced. Prior to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173), the Part B deductible was set in statute. After setting the 2005 deductible amount at \$110, section 629 of the MMA (amending section 1833(b) of the Act) required that the Part B deductible be indexed beginning in 2006. The inflation factor to be used each year is the annual percentage increase in the Part B actuarial rate for enrollees age 65 and over. Specifically, the 2018 Part B deductible is calculated by multiplying the 2017 deductible by the ratio of the 2018 aged actuarial rate to the 2017 aged actuarial rate. The amount determined under this formula is then rounded to the nearest \$1.

The monthly Part B premium rate to be paid by aged and disabled enrollees is also announced. (Although the costs to the program per disabled enrollee are different than for the aged, the statute provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Pub. L.

92–603), the premium rate, which was determined on a fiscal-year basis, was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly Title II Social Security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) suspended this premium determination process. Section 124 of TEFRA changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Pub. L. 98–21), section 2302 of the Deficit Reduction Act of 1984 (DEFRA 84) (Pub. L. 98–369), section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 85) (Pub. L. 99–272), section 4080 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) (Pub. L. 100–203), and section 6301 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89) (Pub. L. 101–239) extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). This extension expired at the end of 1990.

The premium rate for 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act, as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) (Pub. L. 101–508). In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) (Pub. L. 103–66) changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees) for 1996 through 1998.

Section 4571 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33) permanently extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees).

The BBA included a further provision affecting the calculation of the Part B actuarial rates and premiums for 1998 through 2003. Section 4611 of the BBA modified the home health benefit payable under Part A for individuals enrolled in Part B. Under this section, beginning in 1998, expenditures for home health services not considered “post-institutional” are payable under

Part B rather than Part A. However, section 4611(e)(1) of the BBA required that there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from Part A to Part B. Section 4611(e)(2) of the BBA also provided a specific yearly proportion for the transferred funds. The proportions were one-sixth for 1998, one-third for 1999, one-half for 2000, two-thirds for 2001, and five-sixths for 2002. For the purpose of determining the correct amount of financing from general revenues of the Federal Government, it was necessary to include only these transitional amounts in the monthly actuarial rates for both aged and disabled enrollees, rather than the total cost of the home health services being transferred.

Section 4611(e)(3) of the BBA also specified, for the purpose of determining the premium, that the monthly actuarial rate for enrollees age 65 and over be computed as though the transition would occur for 1998 through 2003 and that one-seventh of the cost be transferred in 1998, two-sevenths in 1999, three-sevenths in 2000, four-sevenths in 2001, five-sevenths in 2002, and six-sevenths in 2003. Therefore, the transition period for incorporating this home health transfer into the premium was 7 years while the transition period for including these services in the actuarial rate was 6 years.

Section 811 of the MMA, which amended section 1839 of the Act, requires that, starting on January 1, 2007, the Part B premium a beneficiary pays each month be based on his or her annual income. Specifically, if a beneficiary’s modified adjusted gross income is greater than the legislated threshold amounts (for 2018, \$85,000 for a beneficiary filing an individual income tax return and \$170,000 for a beneficiary filing a joint tax return), the beneficiary is responsible for a larger portion of the estimated total cost of Part B benefit coverage. In addition to the standard 25-percent premium, these beneficiaries now have to pay an income-related monthly adjustment amount. The MMA made no change to the actuarial rate calculation, and the standard premium, which will continue to be paid by beneficiaries whose modified adjusted gross income is below the applicable thresholds, still represents 25 percent of the estimated total cost to the program of Part B coverage for an aged enrollee. However, depending on income and tax filing status, a beneficiary can now be responsible for 35, 50, 65, or 80 percent of the estimated total cost of Part B coverage, rather than 25 percent. (For 2018 and subsequent years, the income

thresholds are lower for the two highest income ranges because of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114–10.) The end result of the higher premium is that the Part B premium subsidy is reduced, and less general revenue financing is required, for beneficiaries with higher income because they are paying a larger share of the total cost with their premium. That is, the premium subsidy continues to be approximately 75 percent for beneficiaries with income below the applicable income thresholds, but it will be reduced for beneficiaries with income above these thresholds. The MMA specified that there be a 5-year transition period to reach full implementation of this provision. However, section 5111 of the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109–171) modified the transition to a 3-year period.

Section 4732(c) of the BBA added section 1933(c) of the Act, which required the Secretary to allocate money from the Part B trust fund to the State Medicaid programs for the purpose of providing Medicare Part B premium assistance from 1998 through 2002 for the low-income Medicaid beneficiaries who qualify under section 1933 of the Act. This allocation, while not a benefit expenditure, was an expenditure of the trust fund and was included in calculating the Part B actuarial rates through 2002. For 2003 through 2015, the expenditure was made from the trust fund because the allocation was temporarily extended. However, because the extension occurred after the financing was determined, the allocation was not included in the calculation of the financing rates for these years. Section 211 of MACRA permanently extended this expenditure, which is included in the calculation of the Part B actuarial rates for 2016 and subsequent years.

Another provision affecting the calculation of the Part B premium is section 1839(f) of the Act, as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (MCCA 88) (Pub. L. 100–360). (The Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101–234) did not repeal the revisions to section 1839(f) of the Act made by MCCA 88.) Section 1839(f) of the Act, referred to as the “hold-harmless” provision, provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the Part B premium deducted from these benefit payments, the premium increase will be reduced, if necessary, to avoid

causing a decrease in the individual's net monthly payment. This decrease in payment occurs if the increase in the individual's Social Security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's Part B premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. The hold-harmless provision does not apply to beneficiaries who are required to pay an income-related monthly adjustment amount.

A check for benefits under section 202 or 223 of the Act is received in the month following the month for which the benefits are due. The Part B premium that is deducted from a particular check is the Part B payment for the month in which the check is received. Therefore, a benefit check for November is not received until December, but December's Part B premium has been deducted from it.

Generally, if a beneficiary qualifies for hold-harmless protection, the reduced premium for the individual for that January and for each of the succeeding 11 months is the greater of either—

- The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the Part B premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the Part B premium for December; or
- The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 of the Act do not include retroactive adjustments or payments and deductions on account of work. Also,

once the monthly premium amount is established under section 1839(f) of the Act, it will not be changed during the year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in Part B late or who have re-enrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. The increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) of the Act are made.

Section 1839 of the Act, as amended by section 601(a) of the Bipartisan Budget Act of 2015 (Pub. L. 114-74), specified that the 2016 actuarial rate for enrollees age 65 and older be determined as if the hold-harmless provision did not apply. The premium revenue that was lost by using the resulting lower premium (excluding the foregone income-related premium revenue) was replaced by a transfer of general revenue from the Treasury, which will be repaid over time to the general fund.

Starting in 2016, in order to repay the balance due (which includes the transfer amount and the foregone income-related premium revenue), the Part B premium otherwise determined will be increased by \$3.00. These repayment amounts will be added to the Part B premium otherwise determined each year and paid back to the general fund of the Treasury and will continue until the balance due is paid back.

High-income enrollees pay the \$3 repayment amount plus an additional \$1.20, \$3.00, \$4.80, or \$6.60 in repayment as part of the income-related monthly adjustment amount (IRMAA) premium dollars, which reduce (dollar for dollar) the amount of general revenue received by Part B from the general fund of the Treasury. Because of this general revenue offset, the

repayment IRMAA premium dollars are not included in the direct repayments made to the general fund of the Treasury from Part B in order to avoid a double repayment. (Only the \$3.00 monthly repayment amounts are included in the direct repayments).

These repayment amounts will continue until the total amount collected is equal to the beginning balance due. (In the final year of the repayment, the additional amounts may be modified to avoid an overpayment.) The repayment amounts (excluding the repayment amounts for high-income enrollees) are subject to the hold-harmless provision. The beginning balance due was \$9,066,409,000, consisting of \$1,625,761,000 in foregone income-related premium revenue plus a transfer amount of \$7,440,648,000. It is estimated that \$1,404,616,000 will have been collected for repayment to the general fund by the end of 2017.

II. Provisions of the Notice

A. Notice of Medicare Part B Monthly Actuarial Rates, Monthly Premium Rates, and Annual Deductible

The Medicare Part B monthly actuarial rates applicable for 2018 are \$261.90 for enrollees age 65 and over and \$295.00 for disabled enrollees under age 65. In section II.B. of this notice, we present the actuarial assumptions and bases from which these rates are derived. The Part B standard monthly premium rate for all enrollees for 2018 is \$134.00.

The following are the 2018 Part B monthly premium rates to be paid by (or on behalf of) beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	Less than or equal to \$170,000	\$0.00	\$134.00
Greater than \$85,000 and less than or equal to \$107,000.	Greater than \$170,000 and less than or equal to \$214,000.	53.50	187.50
Greater than \$107,000 and less than or equal to \$133,500.	Greater than \$214,000 and less than or equal to \$267,000.	133.90	267.90
Greater than \$133,500 and less than or equal to \$160,000.	Greater than \$267,000 and less than or equal to \$320,000.	214.30	348.30
Greater than \$160,000	Greater than \$320,000	294.60	428.60

In addition, the monthly premium rates to be paid by (or on behalf of)

beneficiaries who are married and lived with their spouses at any time during

the taxable year, but who file separate

tax returns from their spouses, are as follows:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	\$0.00	\$134.00
Greater than \$85,000	294.60	428.60

The Part B annual deductible for 2018 is \$183.00 for all beneficiaries.

B. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for Part B Beginning January 2018

The actuarial assumptions and bases used to determine the monthly actuarial rates and the monthly premium rates for Part B are established by the Centers for Medicare & Medicaid Services Office of the Actuary. The estimates underlying these determinations are prepared by actuaries meeting the qualification standards and following the actuarial standards of practice established by the Actuarial Standards Board.

1. Actuarial Status of the Part B Account in the Supplementary Medical Insurance Trust Fund

Under section 1839 of the Act, the starting point for determining the

standard monthly premium is the amount that would be necessary to finance Part B on an incurred basis. This is the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the year is added to the trust fund and used when needed.

The premium rates are established prospectively and are, therefore, subject to projection error. Additionally, legislation enacted after the financing was established, but effective for the period in which the financing is set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets must be maintained at a level that is adequate to cover an appropriate degree of variation between

actual and projected costs, and the amount of incurred, but unpaid, expenses. Numerous factors determine what level of assets is appropriate to cover variation between actual and projected costs. The three most important of these factors are (1) the difference from prior years between the actual performance of the program and estimates made at the time financing was established; (2) the likelihood and potential magnitude of expenditure changes resulting from enactment of legislation affecting Part B costs in a year subsequent to the establishment of financing for that year; and (3) the expected relationship between incurred and cash expenditures. These factors are analyzed on an ongoing basis, as the trends can vary over time.

Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 2016 and 2017.

TABLE 1—ESTIMATED ACTUARIAL STATUS OF THE PART B ACCOUNT IN THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND AS OF THE END OF THE FINANCING PERIOD

Financing period ending	Assets (in millions)	Liabilities (in millions)	Assets less liabilities (in millions)
December 31, 2016	\$87,983	\$28,494	\$59,489
December 31, 2017	79,236	30,559	48,677

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate for enrollees age 65 and older is one-half of the sum of monthly amounts for (1) the projected cost of benefits; and (2) administrative expenses for each enrollee age 65 and older, after adjustments to this sum to allow for interest earnings on assets in the trust fund and an adequate contingency margin. The contingency margin is an amount appropriate to provide for possible variation between actual and projected costs and to amortize any surplus assets or unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for 2018 is determined by first establishing per enrollee costs by type of service from

program data through 2016 and then projecting these costs for subsequent years. The projection factors used for financing periods from January 1, 2015 through December 31, 2018 are shown in Table 2.

As indicated in Table 3, the projected per enrollee amount required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for 2018 is \$247.91. Based on current estimates, the assets associated with the aged Medicare beneficiaries at the end of 2017 are not sufficient to cover the amount of incurred, but unpaid, expenses and to provide for a significant degree of variation between actual and projected costs. Thus, a positive contingency margin is needed. The monthly actuarial rate of \$261.90 provides an adjustment of \$15.88 for a

contingency margin and – \$1.89 for interest earnings.

The contingency margin for 2018 is affected by several factors. Starting in 2011, manufacturers and importers of brand-name prescription drugs pay a fee that is allocated to the Part B account of the SMI trust. For 2018, the total of these brand-name drug fees is estimated to be \$4.1 billion. The contingency margin has been reduced to account for this additional revenue.

Another factor affecting the contingency margin is attributable to the requirement that certain payment incentives, to encourage the development and use of health information technology (HIT) by Medicare physicians, are to be excluded from the premium determination. HIT positive incentive payments or penalties

will be directly offset through transfers with the general fund of the Treasury. The monthly actuarial rate includes an adjustment of \$0.17 for HIT incentives in 2018.

The traditional goal for the Part B reserve has been that assets minus liabilities at the end of a year should represent between 15 and 20 percent of the following year's total incurred expenditures. To accomplish this goal, a 17-percent reserve ratio, which is a fully adequate contingency reserve level, has been the normal target used to calculate the Part B premium. Assets at the end of 2017 are expected to be below the fully adequate level. The financing rates for 2018 are set to restore the asset level in the Part B account to the fully adequate level by the end of 2018 under current law. The actuarial rate of \$261.90 per month for aged beneficiaries, as announced in this notice for 2018, reflects that combined effect of the factors previously described and the projected assumptions listed in Table 2.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons under age 65 who are enrolled in Part B because of entitlement to Social Security disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease (ESRD) program. Projected monthly costs for disabled enrollees (other than those with ESRD) are prepared in a manner parallel to the projection for the aged using appropriate actuarial assumptions (see Table 2). Costs for the ESRD program are projected differently because of the different nature of services offered by the program.

As shown in Table 4, the projected per enrollee amount required to pay for

one-half of the total of benefits and administrative costs for disabled enrollees for 2018 is \$303.70. The monthly actuarial rate of \$295.00 also provides an adjustment of -\$2.73 for interest earnings and -\$5.97 for a contingency margin, reflecting the same factors described previously for the aged actuarial rate at magnitudes appropriate to the disabled rate determination.

Based on current estimates, the assets associated with the disabled Medicare beneficiaries at the end of 2017 are sufficient to cover the amount of incurred, but unpaid, expenses and to provide for a significant degree of variation between actual and projected costs. A negative contingency margin is needed to maintain assets at an appropriate level.

The actuarial rate of \$295.00 per month for disabled beneficiaries, as announced in this notice for 2018, reflects the combined net effect of the factors described previously for aged beneficiaries and the projection assumptions listed in Table 2.

4. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. It is appropriate to test the adequacy of the rates using alternative cost growth rate assumptions. The results of those assumptions are shown in Table 5. One set represents increases that are higher and, therefore, more pessimistic than the current estimate. The other set represents increases that are lower and, therefore, more optimistic than the current estimate. The values for the alternative assumptions were determined from a statistical analysis of the historical variation in the respective increase factors.

As indicated in Table 5, the monthly actuarial rates would result in an excess

of assets over liabilities of \$65,598 million by the end of December 2018 under the cost growth rate assumptions shown in Table 2 and assuming that the provisions of current law are fully implemented. This result amounts to 17.8 percent of the estimated total incurred expenditures for the following year.

Assumptions that are somewhat more pessimistic (and that therefore test the adequacy of the assets to accommodate projection errors) produce a surplus of \$16,355 million by the end of December 2018 under current law, which amounts to 3.9 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates would result in a surplus of \$114,191 million by the end of December 2018, or 35.6 percent of the estimated total incurred expenditures for the following year.

The sensitivity analysis indicates that the premium and general revenue financing established for 2018, together with existing Part B account assets, would be adequate to cover estimated Part B costs for 2018 under current law should actual costs prove to be somewhat greater than expected.

5. Premium Rates and Deductible

As determined in accordance with section 1839 of the Act, the following are the 2018 Part B monthly premium rates to be paid by beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	Less than or equal to \$170,000	\$0.00	\$134.00
Greater than \$85,000 and less than or equal to \$107,000.	Greater than \$170,000 and less than or equal to \$214,000.	53.50	187.50
Greater than \$107,000 and less than or equal to \$133,500.	Greater than \$214,000 and less than or equal to \$267,000.	133.90	267.90
Greater than \$133,500 and less than or equal to \$160,000.	Greater than \$267,000 and less than or equal to \$320,000.	214.30	348.30
Greater than \$160,000	Greater than \$320,000	294.60	428.60

In addition, the monthly premium rates to be paid by beneficiaries who are

married and lived with their spouses at any time during the taxable year, but

who file separate tax returns from their spouses, are as follows:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	\$0.00	\$134.00
Greater than \$85,000	294.60	428.60

TABLE 2—PROJECTION FACTORS¹ 12-MONTH PERIODS ENDING DECEMBER 31 OF 2015–2018
[In percent]

Calendar year	Physicians' services		Durable medical equipment	Carrier lab ⁴	Other carrier services ⁵	Outpatient hospital	Home health agency	Hospital Lab ⁶	Other intermediary services ⁷	Managed care
	Fees ²	Residual ³								
Aged:										
2015	-0.5	0.7	5.8	1.6	4.4	7.3	1.4	2.4	5.0	2.9
2016	-0.3	-1.2	-10.4	-2.5	6.4	4.9	-0.6	2.9	2.1	3.4
2017	0.4	1.0	-3.1	4.8	5.8	8.1	2.5	4.0	5.4	2.6
2018	-0.2	2.0	5.1	0.0	4.3	7.8	3.0	-1.9	-4.6	6.4
Disabled:										
2015	-0.5	0.3	6.2	5.8	5.2	7.1	-1.1	0.4	10.1	3.1
2016	-0.3	-0.5	-7.2	-14.0	6.9	5.5	0.0	5.2	7.2	4.9
2017	0.4	1.1	0.2	3.3	7.3	7.5	3.1	2.9	5.7	3.5
2018	-0.2	1.9	4.9	-0.1	4.8	7.7	3.4	-2.0	-4.4	6.6

¹ All values for services other than managed care are per fee-for-service enrollee. Managed care values are per managed care enrollee.

² As recognized for payment under the program.

³ Increase in the number of services received per enrollee and greater relative use of more expensive services.

⁴ Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.

⁵ Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.

⁶ Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.

⁷ Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 3—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FOR FINANCING PERIODS ENDING DECEMBER 31, 2015 THROUGH DECEMBER 31, 2018

	CY 2015	CY 2016	CY 2017	CY 2018
Covered services (at level recognized):				
Physician fee schedule	\$75.43	\$73.63	\$72.71	\$73.35
Durable medical equipment	6.28	5.57	5.27	5.48
Carrier lab ¹	4.33	4.18	4.27	4.23
Other carrier services ²	22.51	23.72	24.47	25.26
Outpatient hospital	43.25	44.93	47.37	50.57
Home health	9.64	9.49	9.48	9.67
Hospital lab ³	2.25	2.29	2.33	2.26
Other intermediary services ⁴	17.25	17.44	17.92	16.94
Managed care	78.97	83.20	89.11	96.37
Total services	259.92	264.46	272.94	284.13
Cost sharing:				
Deductible	-5.64	-6.35	-7.00	-7.00
Coinurance	-27.95	-27.65	-27.79	-28.27
Sequestration of benefits	-4.52	-4.61	-4.76	-4.97
HIT payment incentives	-1.08	-0.56	-0.02	0.17
Total benefits	220.73	225.29	233.37	244.04
Administrative expenses	2.82	4.07	3.45	3.87
Incurred expenditures	223.55	229.36	236.82	247.91
Value of interest	-1.86	-1.49	-1.67	-1.89
Contingency margin for projection error and to amortize the surplus or deficit	-11.89	9.73	26.75	15.88
Monthly actuarial rate	209.80	237.60	261.90	261.90

¹ Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.

² Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.

³ Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.

⁴ Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 4—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FOR FINANCING PERIODS ENDING DECEMBER 31, 2015 THROUGH DECEMBER 31, 2018

	CY 2015	CY 2016	CY 2017	CY 2018
Covered services (at level recognized):				
Physician fee schedule	\$80.64	\$78.54	\$77.23	\$77.31
Durable medical equipment	12.28	11.17	10.85	11.18
Carrier lab ¹	7.19	6.08	6.09	5.98
Other carrier services ²	25.33	26.16	27.12	27.88
Outpatient hospital	61.51	63.46	66.36	70.26
Home health	7.94	7.75	7.73	7.84
Hospital lab ³	2.78	2.86	2.86	2.76
Other intermediary services ⁴	45.11	46.59	48.13	50.79
Managed care	73.38	81.53	90.23	99.74
Total services	316.16	324.13	336.60	353.74
Cost sharing:				
Deductible	-5.27	-5.94	-6.54	-6.54
Coinsurance	-42.47	-42.17	-42.63	-43.95
Sequestration of benefits	-5.37	-5.52	-5.75	-6.06
HIT payment incentives	-1.14	-0.59	-0.02	0.17
Total benefits	261.92	269.91	281.67	297.36
Administrative expenses	3.34	4.88	5.70	6.34
Incurred expenditures	265.26	274.79	287.37	303.70
Value of interest	-2.21	-2.56	-3.63	-2.73
Contingency margin for projection error and to amortize the surplus or deficit	-8.25	10.37	-29.54	-5.97
Monthly actuarial rate	254.80	282.60	254.20	295.00

¹ Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.

² Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.

³ Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.

⁴ Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 5—ACTUARIAL STATUS OF THE PART B ACCOUNT IN THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 2018

As of December 31,	2016	2017	2018
Actuarial status (in millions):			
Assets	\$87,983	\$79,236	\$97,686
Liabilities	\$28,494	\$30,559	\$32,089
Assets less liabilities	\$59,489	\$48,677	\$65,598
Ratio ¹	18.9%	14.4%	17.8%
Low-cost projection:			
Actuarial status (in millions):			
Assets	\$87,983	\$96,444	\$144,913
Liabilities	\$28,494	\$28,647	\$30,722
Assets less liabilities	\$59,489	\$67,797	\$114,191
Ratio ¹	20.2%	22.2%	35.6%
High-cost projection:			
Actuarial status (in millions):			
Assets	\$87,983	\$63,188	\$50,044
Liabilities	\$28,494	\$32,342	\$33,708
Assets less liabilities	\$59,489	\$30,846	\$16,335
Ratio ¹	17.9%	8.3%	3.9%

¹ Ratio of assets less liabilities at the end of the year to the total incurred expenditures during the following year, expressed as a percent.

III. Collection of Information Requirements

This document does not impose information collection requirements—that is, reporting, recordkeeping, or third-party disclosure requirements.

Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Regulatory Impact Analysis

A. Statement of Need

Section 1839 of the Act requires us to annually announce (that is, by September 30th of each year) the Part B monthly actuarial rates for aged and

disabled beneficiaries as well as the monthly Part B premium. We also announce the Part B annual deductible because its determination is directly linked to the aged actuarial rate.

B. Overall Impact

We have examined the impacts of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995, Pub. L. 104-4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major notices with economically significant effects (\$100 million or more in any one year). For 2018 the standard Part B premium rate, the Part B income-related premium rates, and the Part B deductible are the same as the respective amounts for 2017. However, approximately 70 percent of Part B enrollees who were held harmless from the full increase in the Part B premium in 2017 will pay an increase in their Part B premium, which will have an

annual effect on the economy of \$100 million or more. As a result, this notice is economically significant under section 3(f)(1) of Executive Order 12866 and is a major action as defined under the Congressional Review Act (5 U.S.C. 804(2)).

As discussed earlier, this notice announces that the monthly actuarial rates applicable for 2018 are \$261.90 for enrollees age 65 and over and \$295.00 for disabled enrollees under age 65. It also announces the 2018 monthly Part B premium rates to be paid by beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	Less than or equal to \$170,000	\$0.00	\$134.00
Greater than \$85,000 and less than or equal to \$107,000.	Greater than \$170,000 and less than or equal to \$214,000.	53.50	187.50
Greater than \$107,000 and less than or equal to \$133,500.	Greater than \$214,000 and less than or equal to \$267,000.	133.90	267.90
Greater than \$133,500 and less than or equal to \$160,000.	Greater than \$267,000 and less than or equal to \$320,000.	214.30	348.30
Greater than \$160,000	Greater than \$320,000	294.60	428.60

In addition, the monthly premium rates to be paid by beneficiaries who are married and lived with their spouses at

any time during the taxable year, but who file separate tax returns from their

spouses, are also announced and listed in the following chart:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to \$85,000	\$0.00	\$134.00
Greater than \$85,000	294.60	428.60

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Individuals and states are not included in the definition of a small entity. This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under 65) beneficiaries enrolled in Part B of the Medicare SMI program beginning January 1, 2018. Also, this notice announces the monthly premium for aged and disabled beneficiaries as well as the income-related monthly

adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital

as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. As we discussed previously, we are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this notice will not have a significant effect on a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of \$100 million in 1995 dollars, updated annually for inflation. In 2017, that threshold is approximately \$156

million. Part B enrollees who are also enrolled in Medicaid have their monthly Part B premiums paid by Medicaid. The cost to each state Medicaid program from the 2018 premium increase is estimated to be less than the threshold. This notice does not impose mandates that will have a consequential effect of the threshold amount or more on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on state and local governments, preempts state law, or otherwise has Federalism implications. We have determined that this notice does not significantly affect the rights, roles, and responsibilities of states. Accordingly, the requirements of Executive Order 13132 do not apply to this notice.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

V. Waiver of Proposed Notice

The Medicare statute requires the publication of the monthly actuarial rates and the Part B premium amounts in September. We ordinarily use general notices, rather than notice and comment rulemaking procedures, to make such announcements. In doing so, we note that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find, for good cause, that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. The statute establishes the time period for which the premium rates will apply, and delaying publication of the Part B premium rate such that it would not be published before that time would be contrary to the public interest. Moreover, we find that notice and comment are unnecessary because the formulas used to calculate the Part B premiums are statutorily directed. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

Dated: October 27, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: November 1, 2017.

Eric D. Hargan,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017-24877 Filed 11-17-17; 4:15 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA-2017-P-3989, FDA-2017-P-4195, FDA-2017-P-5114, FDA-2017-P-5909, FDA-2017-P-5910, and FDA-2017-P-5967]

Determination That TRINTELLIX (Vortioxetine Hydrobromide) Oral Tablet, EQ 15 Milligram Base, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that TRINTELLIX (vortioxetine hydrobromide) oral tablet, equivalent to (EQ) 15 milligram (mg) base, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for vortioxetine hydrobromide oral tablet, 15 mg base, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Meadow W. Platt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6228, Silver Spring, MD 20993-0002, 301-796-1830.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to

gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

TRINTELLIX (vortioxetine hydrobromide) oral tablets, EQ 5 mg base, EQ 10 mg base, EQ 15 mg base, and EQ 20 mg base, are the subject of NDA 204447, held by Takeda Pharmaceuticals, USA, Inc., and initially approved on September 30, 2013. TRINTELLIX is indicated for the treatment of major depressive disorder.

TRINTELLIX (vortioxetine hydrobromide) oral tablets, EQ 5 mg base, EQ 10 mg base, and EQ 20 mg base, are listed in the “Prescription Drug Product List” section of the Orange Book, and TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, is listed in the “Discontinued Drug Product List” section of the Orange Book. Takeda Pharmaceuticals, USA, Inc., has never marketed TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base. In previous instances (see, e.g., 72 FR 9763 (March 5, 2007), 61 FR 25497 (May 21, 1996)), the Agency has determined that, for purposes of §§ 314.161 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale.

Lachman Consultant Services, Inc.; INC Research, LLC; Locke Lord, LLP; Goodwin Procter, LLP; Cipla USA Inc.; and Apotex, Inc., submitted citizen petitions dated June 29, 2017; July 12, 2017; August 21, 2017; September 25, 2017; September 25, 2017; and September 27, 2017, respectively (Docket Nos. FDA-2017-P-3989, FDA-

2017-P-4195, FDA-2017-P-5114, FDA 2017-P-5909, FDA-2017-P-5910, and FDA-2017-P-5967) (collectively, "citizen petitions"). Under 21 CFR 10.30, the citizen petitions requested that the Agency determine whether TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, was withdrawn from sale for reasons of safety or effectiveness. Lachman Consultant Services, Inc., and INC Research also asked FDA to accept ANDAs for all four strengths of TRINTELLIX (vortioxetine hydrobromide) tablets: EQ 5 mg base, EQ 10 mg base, EQ 15 mg base, and EQ 20 mg base. Because TRINTELLIX (vortioxetine hydrobromide) oral tablets, EQ 5 mg base, EQ 10 mg base, and EQ 20 mg base, are not listed in the "Discontinued Drug Product List" section of the Orange Book, these strengths do not require a determination as to whether they were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petitions and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, was not withdrawn for reasons of safety or effectiveness. The petitioners have identified no data or other information suggesting that TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to TRINTELLIX (vortioxetine hydrobromide) oral tablet, EQ 15 mg base (as well as those that refer to TRINTELLIX (vortioxetine hydrobromide) oral tablets, EQ 5 mg base, EQ 10 mg base, and EQ 20 mg base), may be approved by the Agency

as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: November 3, 2017.

Anna K. Abram,
*Deputy Commissioner for Policy, Planning,
Legislation, and Analysis.*

[FR Doc. 2017-25156 Filed 11-20-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-6162]

Agency Information Collection Activities; Proposed Collection; Comment Request

Notification of the Intent To Use an Accredited Person Under the Accredited Persons Inspection Program

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 eligibility criteria and the process to be followed by establishments when notifying FDA of a manufacturer's intent to have an accredited third party conduct a quality systems regulation inspection of their establishment instead of FDA, under the Accredited Persons (AP) Inspection Program.

DATES: Submit either electronic or written comments on the collection of information by January 22, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 22, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time

at the end of January 22, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-N-6162 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of the Intent To Use an Accredited Person Under the Accredited Persons Inspection Program." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the

Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRASStaff@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.

Notification of the Intent To Use an Accredited Person Under the Accredited Persons Inspection Program

OMB Control Number 0910–0569—Extension

Section 201 of the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250) amended section 704 of the Federal Food, Drug, and Cosmetic Act by adding subsection (g) (21 U.S.C. 374(g)). This amendment authorized FDA to establish a voluntary third-party inspection program applicable to manufacturers of class II or class III medical devices who meet certain eligibility criteria. In 2007, the program

was modified by the Food and Drug Administration Amendments Act of 2007 by revising eligibility criteria and by no longer requiring prior approval by FDA. To reflect the revisions, FDA modified the title of the collection of information and on March 2, 2009, issued a guidance entitled “Manufacturer’s Notification of the Intent to Use an Accredited Person Under the Accredited Persons Inspection Program Authorized by Section 228 of the Food and Drug Administration Amendments Act of 2007.” This guidance superseded the Agency’s previous guidance regarding requests for third-party inspection and may be found on the internet at <https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm085187.htm>. The guidance is intended to assist device establishments in determining whether they are eligible to participate in the AP Program and, if so, how to submit notification of their intent to use the program. The AP Program applies to manufacturers who currently market their medical devices in the United States and who also market or plan to market their devices in foreign countries. Such manufacturers may need current inspections of their establishments to operate in global commerce.

There are approximately 8,000 foreign and 10,000 domestic manufacturers of medical devices. Approximately 5,000 of these firms only manufacture class I devices and are, therefore, not eligible for the AP Program. In addition, 40 percent of the domestic firms do not export devices and therefore are not eligible to participate in the AP Program. Further, 10 to 15 percent of the firms are not eligible due to the results of their previous inspection. FDA estimates there are 4,000 domestic manufacturers and 4,000 foreign manufacturers that are eligible for inclusion under the AP Program. Based on communications with industry, FDA estimates that on an annual basis approximately 10 of these manufacturers may use an AP in any given year.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity/21 U.S.C. Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Notification regarding use of an accredited person—374(g)	10	1	10	15	150

Since the last approval of this information collection, we have updated the estimated number of respondents from 20 to 10 respondents per year, based on the reduced number of notifications received in recent years. This adjustment has resulted in a 150-hour reduction to the total hour burden estimate.

Dated: November 9, 2017.

Anna K. Abram,

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

[FR Doc. 2017-25158 Filed 11-20-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2014-N-0913]

Agency Information Collection Activities; Proposed Collection; Comment Request; 513(g) Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection burden estimate for requests for a written statement from FDA regarding the classification and regulatory requirements that may be applicable to a particular device (513(g) requests).

DATES: Submit either electronic or written comments on the collection of information by January 22, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 22, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of January 22, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely

if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2014-N-0913 for "Agency Information Collection Activities; Proposed Collection; Comment Request; 513(g) Request for Information." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@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.

513(g) Request for Information

OMB Control Number 0910-0705—Extension

Section 513(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act)

(21 U.S.C. 360c(g)) provides a means for obtaining the Agency's views about the classification and regulatory requirements that may be applicable to a particular device. Section 513(g) provides that, within 60 days of the receipt of a written request of any person for information respecting the class in which a device has been classified or the requirements applicable to a device under the FD&C Act, the Secretary of Health and Human Services shall provide such person a written statement of the classification (if any) of such device and the requirements of the FD&C Act applicable to the device.

The guidance document entitled "FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act; Guidance for Industry and Food and Drug Administration Staff" establishes procedures for submitting, reviewing, and responding to requests for information respecting the class in which a device has been classified or the requirements applicable to a device under the FD&C Act that are submitted in accordance with section 513(g) of the FD&C Act. FDA does not review data related to substantial equivalence or safety and effectiveness in a 513(g) request for information.

FDA's responses to 513(g) requests for information are not device classification decisions and do not constitute FDA clearance or approval for marketing. Classification decisions and clearance or approval for marketing require submissions under different sections of the FD&C Act.

Additionally, the FD&C Act, as amended by the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110-85), requires FDA to collect user fees for 513(g) requests for information. The guidance document entitled "Guidance for Industry and Food and Drug Administration Staff; User Fees for 513(g) Requests for Information" assists FDA staff and regulated industry by describing the user fees associated with 513(g) requests. The Medical Device User Fee Cover Sheet (Form FDA 3601), which accompanies the supplemental material described in this information collection is approved under OMB control number 0910-0511 and expires August 31, 2019.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
CDRH 513(g) requests	114	1	114	12	1,368
CDER 513(g) requests	4	1	4	12	48
Total					1,416

¹ There are no capital costs of operating and maintenance costs associated with this collection off information.

Respondents of this collection of information are mostly device manufacturers; however, anyone may submit a 513(g) request for information. The total number of annual responses is based on the average number of 513(g) requests received each year by the Agency.

Dated: November 9, 2017.

Anna K. Abram,

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

[FR Doc. 2017-25159 Filed 11-20-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Supplemental Award to the National Network for Oral Health Access

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: HRSA announces the award of a supplement in the amount of \$250,000 for a HRSA-funded cooperative agreement awarded to the National Network for Oral Health Access (NNOHA). The supplement, awarded on September 25, 2017, will fund demonstration projects to increase the integration of oral health and primary care practice through the

adoption of HRSA's core clinical oral health competencies for non-dental health care providers in Health Center (HC) settings, focusing on services for pregnant women and children.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: National Network for Oral Health Access.

Amount of Non-Competitive Awards: \$250,000.

Budget Periods of Supplemental Funding: July 1, 2017, through June 30, 2018.

CFDA Number: 93.110.

Authority: Special Projects of Regional and National Significance program (Social Security Act, Title V, § 501(a)(2) (42 U.S.C. 701(a)(2)).

Justification: The National Network for Oral Health Access (NNOHA) supports goals to improve access to oral

health care, increase awareness of the connection between oral health and overall health, prevent disease and promote oral health, and improve health literacy to health providers and patients alike. HRSA developed a core set of oral health clinical competencies for non-dental providers as part of its Integration of Oral Health and Primary Care Practice (IOHPCP) initiative in response to recommendations from two Institute of Medicine (IOM) reports: *Advancing Oral Health in America* and *Improving Access to Oral Health Care for Vulnerable and Underserved Populations*. NNOHA participated in the IOHPCP initiative and in fiscal year (FY) 2012 received supplemental funding (U30CS09745-05-02) to implement a pilot project in safety net settings to inform the impact and effectiveness of oral health core clinical competencies and inter-professional collaboration in primary care settings. The goal of the project was to increase integration of oral health and primary health care. NNOHA published the pilot project results in a user guide entitled, *User's Guide for Implementation of inter-professional oral health core clinical competencies* and continues to

provide technical assistance to health centers and training on oral health integration and primary care practice. The Joint Explanatory Statement to the Consolidated Appropriations Act of FY 2017 encouraged HRSA to allocate \$250,000 for demonstration projects to support the implementation of integrating oral health and primary care projects. The projects are to model the core clinical oral health competencies for non-dental providers that HRSA published and initially tested in its 2014 report, *Integration of Oral Health and Primary Care Practice*. In order to achieve this goal, HRSA will provide supplemental funding to the NNOHA to advance and expand the implementation of oral health core clinical competencies in health centers, focusing on services for pregnant women and children. Additionally, these demonstration projects will directly align with four HRSA recommendations for effectively incorporating the competencies into clinical practice as described in the 2014 *Integrating Oral Health and Primary Care Practice* report. This activity is consistent with the current work plan of NNOHA and includes

providing training and technical assistance on IOHPCP. NNOHA's primary roles are to coordinate all activities at the planning, implementation, evaluation, and dissemination stages, as well as provide technical assistance and training to participating HCs. NNOHA shall select no fewer than six HCs, which it supports as part of the current HRSA-funded National Training and Technical Assistance Cooperative Agreement Program (U30CS29051). NNOHA will assure that each HC will propose, implement, and track data for an innovative inter-professional oral health project that measurably increases the adoption of the core clinical oral health competencies among non-dental providers in the delivery of care to pregnant women and children.

FOR FURTHER INFORMATION CONTACT: Chinyere Amaefule, Office of Quality Improvement, Division of Strategic Partnerships, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: (301) 594-4417, Email: Camaefule@hrsa.gov.

Grantee/organization name	Grant No.	State	FY 2017 authorized funding level	FY 2017-2018 estimated supplemental amount
National Network of Oral Health Access	U30CS29051	CO	\$500,000	\$250,000

Dated: November 14, 2017.
George Sigounas,
Administrator.
 [FR Doc. 2017-25191 Filed 11-20-17; 8:45 am]
BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2018 Through September 30, 2019

AGENCY: Office of the Secretary, DHHS.
ACTION: Notice.

DATES: The percentages listed in Table 1 will be effective for each of the four quarter-year periods beginning October 1, 2018 and ending September 30, 2019.

FOR FURTHER INFORMATION CONTACT: Caryn Marks or Rose Chu, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue

SW., Washington, DC 20201, (202) 690-6870.

SUPPLEMENTARY INFORMATION: The Federal Medical Assistance Percentages (FMAP), Enhanced Federal Medical Assistance Percentages (eFMAP), and disaster-recovery FMAP adjustments for Fiscal Year 2019 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2018 through September 30, 2019. This notice announces the calculated FMAP rates, in accordance with sections 1101(a)(8) and 1905(b) of the Act, that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of federal matching for state medical assistance (Medicaid), Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Title IV-E Foster Care Maintenance payments, Adoption Assistance payments and Kinship Guardianship Assistance payments, and the eFMAP rates for the Children's

Health Insurance Program (CHIP) expenditures. Table 1 gives figures for each of the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This notice reminds states of available disaster-recovery FMAP adjustments for qualifying states, and adjustments available for states meeting requirements for negative growth in total state personal income. At this time, no states qualify for such adjustments.

This notice also contains the increased eFMAPs for CHIP as authorized under the Patient Protection and Affordable Care Act (PPACA) for fiscal years 2016 through 2019 (October 1, 2015 through September 30, 2019).

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands. The percentages in this notice apply to state expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides

separately for federal matching of administrative costs. Sections 1905(b) and 1101(a)(8)(B) of the Social Security Act (the Act) require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8), and calculations by the Department of Commerce of average income per person in each state and for the Nation as a whole. The percentages must fall within the upper and lower limits specified in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

Federal Medical Assistance Percentage (FMAP)

Section 1905(b) of the Act specifies the formula for calculating FMAPs as follows:

“Federal medical assistance percentage” for any state shall be 100 per centum less the state percentage; and the state percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such state bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 55 percent

Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX and XXI shall be 70 percent. For the District of Columbia, we note under Table 1 that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act. The rates for the States, District of Columbia and the territories are displayed in Table 1, Column 1.

Section 1905(y) of the Act, as added by section 2001 of the Patient Protection and Affordable Care Act of 2010 (“Affordable Care Act”), provides for a significant increase in the FMAP for medical assistance expenditures for individuals determined eligible under the new adult group in the state and who will be considered to be “newly eligible” in 2014, as defined in section

1905(y)(2)(A) of the Act. This newly eligible FMAP is 100 percent for Calendar Years 2014, 2015, and 2016, gradually declining to 90 percent in 2020 where it remains indefinitely. In addition, section 1905(z) of the Act, as added by section 10201 of the Affordable Care Act, provides that states that had expanded substantial coverage to low-income parents and nonpregnant adults without children prior to the enactment of the Affordable Care Act, referred to as “expansion states,” shall receive an enhanced FMAP beginning in 2014 for medical assistance expenditures for nonpregnant childless adults who may be required to enroll in benchmark coverage. These provisions are discussed in more detail in the Medicaid Eligibility proposed rule published on August 17, 2011 (76 FR 51172) and the final rule published on March 23, 2012 (77 FR 17143). This notice is not intended to set forth the newly eligible or expansion state FMAP rates.

Other Adjustments to the FMAP

For purposes of Title XIX (Medicaid) of the Social Security Act, the Federal Medical Assistance Percentage (FMAP), defined in section 1905(b) of the Social Security Act, for each state beginning with fiscal year 2006 is subject to an adjustment pursuant to section 614 of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3. Section 614 of CHIPRA stipulates that a state’s FMAP under Title XIX (Medicaid) must be adjusted in two situations.

In the first situation, if a state experiences positive growth in total personal income and an employer in that state has made a significantly disproportionate contribution to a pension or insurance fund, the state’s FMAP must be adjusted. Employer pension and insurance fund contributions are significantly disproportionate if the increase in contributions exceeds 25 percent of the increase in total personal income in that state. A **Federal Register** Notice with comment period was issued on June 7, 2010 (75 FR 32182) announcing the methodology for calculating this adjustment; a final notice was issued on October 15, 2010 (75 FR 63480). A second situation arises if a state experiences negative growth in total personal income. Beginning with Fiscal Year 2006, section 614(b)(3) of CHIPRA specifies that certain employer pension or insurance fund contributions shall be disregarded when computing the per capita income used to calculate the FMAP for states with negative growth in total personal income. In that instance,

for the purposes of calculating the FMAP, for a calendar year in which a state’s total personal income has declined, the portion of an employer pension and insurance fund contribution that exceeds 125 percent of the amount of the employer contribution in the previous calendar year shall be disregarded.

We request that states follow the same methodology to determine potential FMAP adjustments for negative growth in total personal income that HHS employs to make adjustments to the FMAP for states experiencing significantly disproportionate pension or insurance contributions. See also the information described in the January 21, 2014 **Federal Register** notice (79 FR 3385). This notice does not contain an FY 2019 adjustment for a major statewide disaster for any state (territories are not eligible for FMAP adjustments) because no state’s FMAP decreased by at least three percentage points from FY 2018 to FY 2019.

Enhanced Federal Medical Assistance Percentage (eFMAP) for CHIP

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as follows:

The “enhanced FMAP”, for a state for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the state increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the state, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a state exceed 85 percent.

In addition, Section 2105(b) of the Social Security Act, as amended by Section 2101 of the Affordable Care Act, increases the eFMAP for states by 23 percentage points:

. . . during the period that begins on October 1, 2015, and ends on September 30, 2019, the enhanced FMAP determined for a state for a fiscal year (or for any portion of a fiscal year occurring during such period) shall be increased by 23 percentage points, but in no case shall exceed 100 percent.

The eFMAP rates are used in the Children’s Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the states, and display both the normal eFMAP rates (Table 1, Column 2) and the Affordable Care Act’s increased eFMAP

rates (Table 1, Column 3) for comparison.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching

Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778:

Medical Assistance Program; 93.767: Children’s Health Insurance Program)

Dated: November 13, 2017.

Eric D. Hargan,
Acting Secretary.

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2018—SEPTEMBER 30, 2019

[Fiscal year 2019]

	Federal medical assistance percentages	Enhanced federal medical assistance percentages	Enhanced federal medical assistance percentages with ACA 23 Pt Inc ***
Alabama	71.88	80.32	100.00
Alaska	50.00	65.00	88.00
American Samoa *	55.00	68.50	91.50
Arizona	69.81	78.87	100.00
Arkansas	70.51	79.36	100.00
California	50.00	65.00	88.00
Colorado	50.00	65.00	88.00
Connecticut	50.00	65.00	88.00
Delaware	57.55	70.29	93.29
District of Columbia **	70.00	79.00	100.00
Florida	60.87	72.61	95.61
Georgia	67.62	77.33	100.00
Guam *	55.00	68.50	91.50
Hawaii	53.92	67.74	90.74
Idaho	71.13	79.79	100.00
Illinois	50.31	65.22	88.22
Indiana	65.96	76.17	99.17
Iowa	59.93	71.95	94.95
Kansas	57.10	69.97	92.97
Kentucky	71.67	80.17	100.00
Louisiana	65.00	75.50	98.50
Maine	64.52	75.16	98.16
Maryland	50.00	65.00	88.00
Massachusetts	50.00	65.00	88.00
Michigan	64.45	75.12	98.12
Minnesota	50.00	65.00	88.00
Mississippi	76.39	83.47	100.00
Missouri	65.40	75.78	98.78
Montana	65.54	75.88	98.88
Nebraska	52.58	66.81	89.81
Nevada	64.87	75.41	98.41
New Hampshire	50.00	65.00	88.00
New Jersey	50.00	65.00	88.00
New Mexico	72.26	80.58	100.00
New York	50.00	65.00	88.00
North Carolina	67.16	77.01	100.00
North Dakota	50.00	65.00	88.00
Northern Mariana Islands *	55.00	68.50	91.50
Ohio	63.09	74.16	97.16
Oklahoma	62.38	73.67	96.67
Oregon	62.56	73.79	96.79
Pennsylvania	52.25	66.58	89.58
Puerto Rico *	55.00	68.50	91.50
Rhode Island	52.57	66.80	89.80
South Carolina	71.22	79.85	100.00
South Dakota	56.71	69.70	92.70
Tennessee	65.87	76.11	99.11
Texas	58.19	70.73	93.73
Utah	69.71	78.80	100.00
Vermont	53.89	67.72	90.72
Virgin Islands *	55.00	68.50	91.50
Virginia	50.00	65.00	88.00
Washington	50.00	65.00	88.00
West Virginia	74.34	82.04	100.00
Wisconsin	59.37	71.56	94.56
Wyoming	50.00	65.00	88.00

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.

** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, the percentage for DC is 50.00, unless otherwise specified by law.

*** Section 2101(a) of the Affordable Care Act amended Section 2105(b) of the Social Security Act to increase the enhanced FMAP for states by 23 percentage points, but not to exceed 100 percent, for the period that begins on October 1, 2015 and ends on September 30, 2019 (fiscal years 2016 through 2019).

[FR Doc. 2017-24953 Filed 11-20-17; 8:45 am]

BILLING CODE 4150-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Meeting of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) announces the next federal advisory committee meeting regarding the development of national health promotion and disease prevention objectives for 2030. This meeting will be held online via webinar and is open to the public. The Committee will discuss the nation's health promotion and disease prevention objectives and will provide recommendations to improve health status and reduce health risks for the nation by the year 2030. The Committee will advise the Secretary on the Healthy People 2030 mission, vision, framework, and organizational structure. The Committee will provide advice regarding criteria for identifying a more focused set of measurable, nationally representative objectives. Pursuant to the Committee's charter, the Committee's advice must assist the Secretary in reducing the number of objectives while ensuring that the selection criteria identifies the most critical public health issues that are high-impact priorities supported by current national data.

DATES: The Committee will meet on December 11, 2017, from 3:00 p.m. to 5:00 p.m. Eastern Time (ET).

ADDRESSES: The meeting will be held online via webinar. To register to attend the meeting, please visit the Healthy People Web site at <http://www.healthypeople.gov>.

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Designated Federal Official, Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030, U.S. Department of Health and Human Services, Office of

the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Room LL-100, Rockville, MD 20852, (240) 453-8280 (telephone), (240) 453-8281 (fax). Additional information is available on the Healthy People Web site at <http://www.healthypeople.gov>.

SUPPLEMENTARY INFORMATION: The names and biographies of the Committee members are available at <https://www.healthypeople.gov/2020/about/history-development/healthy-people-2030-advisory-committee>.

Purpose of Meeting: Through the Healthy People initiative, HHS leverages scientific insights and lessons from the past decade, along with new knowledge of current data, trends, and innovations, to develop the next iteration of national health promotion and disease prevention objectives. Healthy People provides science-based, 10-year national objectives for promoting health and preventing disease. Since 1979, Healthy People has set and monitored national health objectives that meet a broad range of health needs, encourage collaboration across sectors, guide individuals toward making informed health decisions, and measure the impact of our prevention and health promotion activities. Healthy People 2030 health objectives will reflect assessments of major risks to health and wellness, changing public health priorities, and emerging technologies related to our nation's health preparedness and prevention.

Public Participation at Meeting: Members of the public are invited to join the online Committee meeting. There will be no opportunity for oral public comments during this online Committee meeting. However, written comments are welcome throughout the entire development process of the national health promotion and disease prevention objectives for 2030 and may be emailed to HP2030@hhs.gov.

To join the Committee meeting, individuals must pre-register at the Healthy People Web site at <http://www.healthypeople.gov>. Participation in the meeting is limited. Registrations will be accepted until maximum webinar capacity is reached, and must be completed by 9:00 a.m. ET on December 11, 2017. A waiting list will be maintained should registrations exceed capacity, and those individuals will be contacted as additional space for the meeting becomes available. Registration

questions may be directed to HealthyPeople@norc.org.

Authority: 42 U.S.C. 300u and 42 U.S.C. 217a. The Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030 is governed by provisions of the Federal Advisory Committee Act (FACA), Public Law 92-463, as amended (5 U.S.C., App.) which sets forth standards for the formation and use of federal advisory committees.

Dated: November 14, 2017.

Don Wright,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion).

[FR Doc. 2017-25192 Filed 11-20-17; 8:45 am]

BILLING CODE 4150-32-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2017-0125]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625-0121

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0121, United States Coast Guard Academy Introduction Mission Program Application and Supplemental Forms; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before January 22, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG-2017-0125] to the Coast Guard using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for

further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at <http://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG-612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE., STOP 7710, WASHINGTON, DC 20593-7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202-475-3532, or fax 202-372-8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG-2017-0125], and must be received by January 22, 2018.

Submitting Comments

We encourage you to submit comments through the Federal

eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: United States Coast Guard Academy Introduction Mission Program Application and Supplemental Forms.

OMB Control Number: 1625-0121.

Summary: This collection contains the application and all supplemental forms required to be considered as an applicant to the U.S. Coast Guard Academy Introduction Mission (AIM) Program.

Need: The information is needed to select applicants for participation in a one-week summer recruiting and training program for prospective Cadets interested in attending the U.S. Coast Guard Academy.

Forms: USCGA-AIM1, Travel Update Form; USCGA-AIM2, Scholarship Request Form; USCGA-AIM3, Medical Release Form.

Respondents: Approximately 2,000 applicants apply annually to attend the AIM Program. Approximately 3,000 individuals will submit letters of recommendation for these applicants.

Frequency: Applicants must apply only once per year.

Hour Burden Estimate: The annual burden is estimated at 9,000 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: November 15, 2017.

James D. Roppel,

U.S. Coast Guard, Acting Chief, Office of Information Management.

[FR Doc. 2017-25155 Filed 11-20-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Roasted Coffee

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 roasted coffee. Based upon the facts presented, CBP has concluded in the final determination that Canada or the United States, *i.e.*, the country where the raw green coffee beans are roasted, is the country of origin of the roasted coffee for purposes of U.S. Government procurement.

DATES: The final determination was issued on November 15, 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 December 21, 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 November 15, 2017, CBP issued a final determination concerning the country of origin of roasted coffee which may be offered to the United States Government under an undesignated government procurement contract. This final determination, HQ H291135, was issued at the request of Keurig Green Mountain, 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, the roasting of raw green coffee beans substantially transforms the coffee beans into a product of the country where the raw green coffee beans are roasted, *i.e.* Canada or the United States, 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: November 15, 2017,

Alice A. Kipel,

*Executive Director, Regulations and Rulings,
Office of Trade.*

HQ H291135

November 15, 2017

OT:RR:CTF:VS H291135 CMR

CATEGORY: Origin

Marian E. Ladner, Esq.
Ladner & Associates PC
420 Heights Boulevard
Houston, TX 77007

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); subpart B, Part 177, CBP Regulations; Roasted Coffee

Dear Ms. Ladner:

This is in response to your request of September 29, 2017, on behalf of your client, Keurig Green Mountain (“Keurig”), requesting a final determination concerning roasted coffee 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.*). This final determination concerns the country of origin of roasted coffee produced from raw green coffee beans roasted in Canada or the United States. As an importer of this merchandise, Keurig is a party-at-interest within the meaning of 19 CFR 177.23(a) and is entitled to request this final determination.

FACTS:

The coffee will be produced from raw green coffee beans imported into either Canada or the United States. The green coffee beans will either be in their natural caffeinated state or decaffeinated. The decaffeination of the beans is a separate process occurring in a country on the Designated Country list in 48 CFR 52.225–5(a) prior to importation into Canada or the United States. Once imported, the green beans, caffeinated and decaffeinated, undergo a roasting and packaging process. Keurig cleans, blends and roasts the beans. A small percentage of beans are sprayed with flavoring ingredients. After the roasting and flavoring processes are complete, Keurig grinds, degasses and packages the coffee beans for sale. All of the processes after receipt of the green beans, caffeinated or decaffeinated, occur in the country of receipt, *i.e.*, Canada or the United States. We note,

in some cases the coffee will remain in bean form.

ISSUE:

Whether the raw green coffee beans are substantially transformed by the roasting process for purposes of United States Government procurement.

LAW AND ANALYSIS:

U.S. 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 purpose of granting waivers of certain “Buy American” restrictions in United States law or practice for products offered for sale to the United States Government, 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).

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).

In rendering advisory rulings and final determinations for purposes of United States 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 Acquisition 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). The Federal Acquisition Regulations define “U.S.-made end product” as:

. . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States 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.

For more than 30 years, CBP has recognized that roasting green coffee beans substantially transforms the beans into a new and different article of commerce. *See* Headquarters Ruling

Letter (HQ) 733563, dated June 24, 1991, citing HQ 070395, dated June 6, 1983; HQ 722980, dated October 17, 1983; HQ 722360, dated June 6, 1984; and, HQ 725641, dated July 25, 1984. These rulings from 1983 and 1984 concluded that roasting, or roasting and blending, of coffee was sufficient to change its character and use and thus effect a substantial transformation. Based on this long held position, depending on where the coffee beans are roasted, the roasting of the green coffee beans substantially transforms the coffee beans into either a product of Canada, or a product of the United States, for purposes of government procurement.

As the decaffeination occurs prior to the roasting of the green beans, we see no need to address it. In addition, as all of the other processing, *i.e.*, flavoring, grinding, degassing and packaging, occur in the same country as roasting, there is no need to address these additional processes. The resulting roasted coffee, ground or in bean form, is a product of Canada or the United States.

HOLDING:

Based on the facts and analysis set forth above, for United States Government procurement purposes, the country of origin of the roasted coffee, in ground or bean form, is the country where the raw green coffee beans are roasted, *i.e.*, Canada or the United States.

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. 2017–25146 Filed 11–20–17; 8:45 am]

BILLING CODE 9111–14–P

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR–6065–N–01]

The Performance Review Board

AGENCY: Office of the Deputy Secretary,
HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the establishment of two Performance Review Boards to make recommendations to the appointing authority on the performance of its senior executives. Dominique G. Blom, Towanda A. Brooks, Sarah L. Gerecke, Jean L. Pao, Tawanna Preston, Todd M. Richardson, and will serve as members of the Departmental Performance Review Board to review career SES performance. Seth D. Appleton, Matthew F. Hunter, Johnson P. Joy, Gisele G. Roget, and Bethany A. Zorc will serve as members of the Departmental Performance Review Board to review noncareer SES performance. The address is: Department of Housing and Urban Development, Washington, DC 20410-0050.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Lynette Warren, Director, Office of Executive Resources, Department of Housing and Urban Development, Washington, DC 20410. Telephone (202) 708-1381. (This is not a toll-free number)

Dated: November 14, 2017.

Pamela H. Patenaude,

Deputy Secretary.

[FR Doc. 2017-25186 Filed 11-20-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5998-N-10]

60-Day Notice of Proposed Information Collection: Implementation Phase Evaluation of LGBTQ Youth Homelessness Prevention Initiative

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

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

DATES: *Comments Due Date:* January 22, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-5534 (this is not a toll-free number) or email at Anna.P.Guido@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

FOR FURTHER INFORMATION CONTACT: Rachel Duplessis, Program Specialist, SNAP, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Rachel Duplessis at Rachel.k.duplessis@hud.gov or telephone 202-402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

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

A. Overview of Information Collection

Title of Information Collection: Implementation Phase Evaluation of LGBTQ Youth Homelessness Prevention Initiative.

OMB Approval Number: NA.

Type of Request: New.

Form Number: NA.

Description of the need for the information and proposed use: The LGBTQ Youth Homelessness Prevention Initiative began in the summer of 2013 as part of a federal interagency initiative to prevent homelessness among lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth, and to intervene early when homelessness occurs for these youths. Federal partners from the U.S. Departments of Education, Health, and Juvenile Justice, as well as the U.S. Interagency Council on Homelessness, support this HUD

initiative. The initiative supports the federal goal to end youth homelessness and contributes to the development of a model for preventing LGBT youth homelessness that other communities can replicate. Two communities participate in this initiative and receive technical assistance (TA) to support their initiative planning and implementation.

This request for OMB clearance covers the implementation phase which will document the approach and experiences of both communities as they have implemented their local plan. Furthermore, this review will examine the resources required to carry out implementation, what worked well, what challenges emerged and how they were addressed, lessons learned and recommendations both sites offer for potential replication. To produce this information, HUD will collect quantitative and qualitative data from primary sources using four methods: Interviews, surveys, focus groups, and document review. Participants will consist of the local initiative leads as well as individuals involved in local initiative steering committees and subcommittees and community members associated with the initiative.

This is a re-submission of a PRA package that had previously been withdrawn by the Department to undertake additional review. The original 60-day Notice was published on September 20, 2016, and can be found at: <https://www.federalregister.gov/documents/2016/09/20/2016-22580/60-day-notice-of-proposed-information-collection-implementation-phase-review-of-the-lesbian-gay>.

Respondents (i.e. affected public): Organizations participating in the two local initiatives, including local lead organizations and participants on the local steering committees and subcommittees.

Implementation Phase Interview: Local leads, steering committee members and subcommittee members, community members,

Implementation Phase Focus Group: Local leads, steering committee members and subcommittee members, community members,

Implementation Phase Survey: Local leads, steering committee members and subcommittee members, community members.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Interviews	30	1	30	1	30	\$30.54	\$916.2

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Focus Group	48	1	48	1	48	30.54	1465.92
Survey	96	1	96	.25	24	30.54	732.96
Total	174	1	174	.....	102	30.54	3115.08

B. Solicitation of Public Comment

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

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

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

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

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

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

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

Dated: October 12, 2017.

Neal Rackleff,

Assistant Secretary, Community Planning and Development.

[FR Doc. 2017-25119 Filed 11-20-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX17EG40DW73200; OMB Control Number 1028-0111]

Agency Information Collection

Activities: The National Map Corps (TNMCorps)—Volunteered Geographic Information Project

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USGS is proposing to renew an information collection (IC).

DATES: To ensure that your comments are considered, we must receive them on or before January 22, 2018.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192 (mail); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028-0111, The National Map Corps' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Erin Korris, National Geospatial Technical Operations Center, USGS, Denver Federal Center, Box 25046, Mail Stop 510, Denver, CO 80225 (mail); 303-202-4503 (phone); or *ekorris@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed IC that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The National Map Corps (TNMCorps) is the name of the U.S. Geological Survey (USGS) National Geospatial Program (NGP) project that encourages citizen participation in volunteer map data collection activities. TNMCorps uses crowdsourcing—new technologies and Internet services to georeference structure points and share this information with others on map-based Internet platforms—to produce volunteered geographic information (VGI). People participating in the crowdsourcing will be considered part of the TNMCorps.

In general, the National Structures Dataset (NSD) has been populated with the best available national data. This data has been exposed for initial improvement by TNMCorps volunteers via the online Map Editor (the instrument). In addition, the data goes through a tiered-editing process, which includes Peer Review and Advanced Editors. At each stage the data is passed through an automatic "magic filter" to look for data issues before being submitted into the NSD. In addition data goes through sampling for quality assurance procedures.

Once part of the NSD, the data are then available to the USGS and to the public at no cost via The National Map and ultimately US Topo.

Data quality studies in 2012 and 2014 showed that the volunteers' actions were accurate and exceeded USGS quality standards. Volunteer-collected data showed an improvement in both location and attribute accuracy for existing data points. Completeness, or the extent to which all appropriate features were identified and recorded, was also improved.

Title of Collection: The National Map Corps—Volunteered Geographic Information Project.

OMB Control Number: 1028-0111.

Form Number: NA.

Type of Request: Extension of currently approved collection.

Affected Public: General Public.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: Intermittent, with an estimated 840 participants annually.

Estimated Total Number of Annual Responses: 100,000.

Estimated Time per Response: 12 minutes.

Estimated Annual Burden Hours: 20,000.

Estimated Reporting and Recordkeeping “Non-Hour Cost”

Burden: There are no “non-hour cost” burdens associated with this IC.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Kari Craun,

Director, National Geospatial Technical, Operations Center, U.S. Geological Survey.

[FR Doc. 2017–25148 Filed 11–20–17; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX17EE000101000; OMB Control Number 1028–0110]

Agency Information Collection Activities; International Organization for Standardization (ISO) Geospatial Metadata Editors Registry

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USGS is proposing to renew an information collection.

DATES: To ensure that your comments are considered, we must receive them on or before January 22, 2018.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192 (mail); or gs-info_collections@usgs.gov (email). Please reference ‘Information Collection 1028–0110, ISO Geospatial Metadata Editors Registry’ in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Carlino, Federal Geographic Data Committee Office of the Secretariat, USGS, P.O. Box 25046, Mail Stop 302, Denver Federal Center, Denver, CO 80225 (mail); 303–202–4260 (phone); or jcarlino@usgs.gov (email). You may also find information about this IC at www.reginfo.gov.

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed IC that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As National Spatial Data Infrastructure (NSDI) stakeholders move forward with the implementation of the International Organization for Standardization’s (ISO) 191** series of geospatial metadata standards, there is increasing demand for information about applications/editors that can be used to create ISO compliant metadata records. The USGS, through the Federal Geographic Data Committee (FGDC) Office of the Secretariat (www.fgdc.gov), proposes development of an online registration system for developers of ISO Geospatial Metadata Editors to voluntarily describe their metadata tools. Developers will be asked to include information such as features of the editor, its functionality, supported standards, and point of contact information through a login-based, online form. The FGDC Metadata

Working Group (MWG) (<https://www.fgdc.gov/organization/working-groups-subcommittees/mwg/index.html>), whose membership represents Federal, State, Local and Tribal governments and the Private Sector, has requested the development of the registry as a useful tool to learn about available ISO Geospatial Metadata Editors. Because the information about the editors may be of interest or utility to others implementing ISO geospatial metadata standards, the FGDC will make the information collected available on the Web in the form of a simple registry-type database. FGDC MWG members as well as non FGDC MWG members including geospatial metadata implementers from private sector, academia, all forms of government, and the general public, will have read-only access to the editor information published in the registry.

Title: ISO Geospatial Metadata Editors Registry.

OMB Control Number: 1028–0110.

Form Number: Not applicable.

Type of Request: Renewal of existing information collection.

Affected Public: Federal, State, Local and Tribal governments, Private Sector, and others involved in the development of ISO geospatial metadata.

Respondent’s Obligation: None. Participation is voluntary.

Frequency of Collection: Following its initial collection from editor developers, the information will be reviewed at least annually. As part of the annual review, all editor developers listed in the registry will be contacted and requested to update their information, if needed, via the login-based online form. Additionally, all NSDI stakeholders will be reminded via Web posting at the FGDC Web site (www.fgdc.gov) and community-of-practice networking that new editors may be added to the registry.

Estimated Total Number of Annual Responses: Approximately 5.

Estimated Time per Response: We estimate that it will take one hour per person to document a single editor for inclusion in the registry. In future years, review of editor information to ensure currency or identification of new editors is expected to require *de minimis* effort.

Estimated Annual Burden Hours: 5 hours.

Estimated Reporting and Recordkeeping “Non-Hour Cost” Burden: There are no “non-hour cost” burdens associated with this IC.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*)

Kenneth M. Shaffer,
Deputy Director, Federal Geographic Data Committee Office of the Secretariat, U.S. Geological Survey.

[FR Doc. 2017-25178 Filed 11-20-17; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/
A0A501010.999900 253G]

Salt River Pima-Maricopa Indian Community; Amendment to Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes an amendment to the Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance.

DATES: This amendment shall be applicable December 21, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlot Johnson, Tribal Government Services Officer, Western Regional Office, Bureau of Indian Affairs, 2600 North Central Avenue, Phoenix, AZ 85004, Telephone: (602) 379-6786, Fax: (602) 379-4100.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. On June 7, 2017, the Salt River Pima-Maricopa Community Council duly adopted the amendment to the Community's Chapter 14, Alcoholic Beverage Control Ordinance by Ordinance SRO-492-2017. This **Federal Register** notice amends the existing Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, enacted by the Salt River Pima-Maricopa Indian Community Council, which was published in the **Federal Register** on January 21, 2016 (81 FR 3453). By the delegated authority contained in 3 IAM 4.4, the Western Regional Director, Bureau of Indian Affairs, approved the Salt River Pima-Maricopa Indian

Community's amendment on August 9, 2017.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs. I certify that the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona, duly adopted this amendment to the Community's Chapter 14, Alcoholic Beverage Control Ordinance on June 7, 2017.

Authority: 18 U.S.C. 1161

Dated: October 19, 2017.

John Tahsuda,

Acting Assistant Secretary-Indian Affairs.

The Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, Section 14-25, is amended to add the new subsection (f) as follows:

(f) Alcoholic beverages may be possessed and consumed (and not sold) at a private event of a bona fide commercial entity who is a lessee within the Community's designated area as defined by Section 14-54, one-time a calendar year, if the following conditions are met:

(1) The host is serving alcohol beverages free of charge and there is no fee to be admitted into the private event;

(2) the event is private and only open to a known group of guests (and not the public)

(3) the host is a commercial tenant within the Community;

(4) the host has a Business License with the Community;

(5) the host notifies the Office at least 30 days prior to the event by the filing of a notification form as prescribed by the Office, and that provides specifics as to the private event, agrees in writing to follow all applicable Community laws and Arizona State alcoholic beverage laws, and also agrees to assume all risk and liability for any damages that may occur as a result of this event;

(6) the Office is aware in writing of the event at least 30 days prior to it being held and is able to provide notice of the event to the SRPD and any other necessary departments; and

(7) the host agrees to obtain a special use permit or other licensing depending on the size and nature of the event (including any additional costs to provide police or other staffing), at the direction of the Office.

The Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, Section 14-55(6)(b)(1)-(3) shall be repealed and replaced with new Sections 14-55(6)(b)(1)-(5) as follows:

1. A special event license is a temporary license and authorizes the sale of liquor for a limited time in the Community;

2. An applicant may be issued a special event license for no more than 10 consecutive days per license during the course of a calendar year;

3. An unlicensed premises may hold up to 12 special events per calendar year, and a licensed location or government owned location may hold unlimited events per year;

4. A special event license shall only be available to a business that is not in the primary business of selling food or alcohol;

5. Special Event licenses shall only be issued if it also meets the requirements of the Arizona liquor law requirements.

The Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, Section 14-64(5) shall add the following category as (h):

Licenses	Original	Renewal
h. Sports Stadium/ Entertainment Venue	\$2000.00	\$500.00

The Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, Section 14-102(f)'s first sentence shall be amended to read as follows (subsections (f)(1)-(4) shall remain the same).

It shall be unlawful for a licensee or an employee of the licensee to consume alcoholic beverages on or about the licensed premises, or to be intoxicated or in a disorderly condition during such periods as when such person is working at the licensed premises, except that:

The Salt River Pima-Maricopa Indian Community's Chapter 14, Alcoholic Beverage Control Ordinance, Section 14-102 shall have the following 102(cc)-(mm) added.

(cc) It is unlawful for a person to take or solicit orders for alcoholic beverages unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

(dd) It is unlawful for any retail licensee to purchase alcoholic beverages from any person other than a solicitor or salesman of a wholesaler licensed by the State of Arizona.

(ee) It is unlawful for a retailer to acquire an interest in property owned, occupied or used by a wholesaler in the wholesaler's business, or in a license with respect to the premises of the wholesaler.

(ff) It is unlawful for an on-sale retailer to permit an employee or for an

employee to solicit or encourage others, directly or indirectly, to buy the employee drinks or anything of value in the licensed premises during the employee's working hours. No on-sale retailer shall serve employees or allow a patron of the establishment to give alcoholic beverages to, purchase liquor for or drink liquor with any employee during the employee's working hours.

(gg) It is unlawful for a person to have possession of or to transport alcoholic beverages which are manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States, the Community and the State of Arizona. Any property used in transporting such alcoholic beverages shall be forfeited, seized and disposed of.

(hh) It is unlawful for a person who is obviously intoxicated to buy or attempt to buy alcoholic beverages from a licensee or employee of a licensee or to consume alcoholic beverages on a licensed premises.

(ii) It is unlawful for a licensee to use a vending machine for the purpose of dispensing alcoholic beverages.

(jj) It is unlawful for a retailer to knowingly allow a customer to bring alcoholic beverages onto the licensed premises.

(kk) It is unlawful for a person to purchase, offer for sale or use any device, machine or process which mixes alcoholic beverages with pure oxygen or another gas to produce a vaporized product for the purpose of consumption by inhalation or to allow patrons to use any item for the consumption of vaporized alcoholic beverages.

(ll) It is unlawful for a retail licensee or an employee of a retail licensee to sell alcoholic beverages to a person if the retail licensee or employee knows the person intends to resell the alcoholic beverages.

(mm) It is unlawful for a person to reuse a bottle or other container authorized for use by the laws of the United States or any agency of the United States for the packaging of distilled spirits or for a person to increase the original contents or a portion of the original contents remaining in a liquor bottle or other authorized container by adding any substance.

[FR Doc. 2017-25109 Filed 11-20-17; 8:45 am]

BILLING CODE 4337-15-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-75]

Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products)

AGENCY: United States International Trade Commission.

ACTION: Publication of summary of the Commission's report on the investigation.

SUMMARY: Section 202(f)(3) of the Trade Act of 1974 requires that the United States International Trade Commission ("Commission") publish in the **Federal Register** a summary of each report that it submits to the President under section 202(f)(1) of the Trade Act of 1974. Set forth below is a summary of the report that the Commission submitted to the President on November 13, 2017, on investigation No. TA-201-75, *Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)*. The Commission conducted the investigation under section 202(b) of the Trade Act of 1974 following receipt of a petition properly filed on May 17, 2017. The full text of the report (with the exception of confidential business information) will be posted on the Commission's Web site at <https://www.usitc.gov>.

DATES: November 13, 2017: Transmittal of the Commission's report to the President.

ADDRESSES: United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Web site (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2002.

SUPPLEMENTARY INFORMATION:

Procedural summary: Effective May 17, 2017, the Commission instituted this investigation under section 202(b) of the Trade Act to determine whether Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission instituted the investigation in response to a petition, as amended and properly filed on May 17, 2017 by Suniva, Inc. ("Suniva"), a producer of CSPV cells and CSPV modules in the United States. On May 25, 2017, SolarWorld Americas publicly stated its support for the petition as a co-petitioner.

Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** (82 FR 25331 (June 1, 2017)). The public hearing in connection with the injury phase of the investigation was held on August 15, 2017, in Washington, DC, and the public hearing in connection with the remedy phase of the investigation was held on October 3, 2017, in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted with respect to injury issues on September 22, 2017, and with respect to remedy issues on October 31, 2017.

The Commission submitted its report to the President on November 13, 2017. The report included the Commission's injury determination and remedy recommendations, an explanation of the basis for the determination and remedy recommendations, and a summary of the information obtained in the investigation.

Determination: On the basis of information developed in the subject investigation, the Commission determined pursuant to section 202(b) of the Trade Act of 1974 that crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) ("CSPV products") are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

Having made an affirmative injury determination pursuant to section

202(b) of the Trade Act of 1974, the Commission was required to make certain additional findings under the implementing statutes of certain free trade agreements (“FTAs”) or under statutory provisions related to certain preferential trade programs. Under section 311(a) of the NAFTA Implementation Act (19 U.S.C. 3371(a)), the Commission found that imports of CSPV products from Mexico account for a substantial share of total imports and contribute importantly to the serious injury caused by imports. Under 19 U.S.C. 3371(a), the Commission also found, with Chairman Rhonda K. Schmidlein dissenting, that imports of CSPV products from Canada do not account for a substantial share of total imports and do not contribute importantly to the serious injury caused by imports. The Commission further found that imports of CSPV products from Korea are a substantial cause of threat of serious injury, but that imports of CSPV products from Australia, the U.S.-Dominican Republic—Central America Free Trade Agreement (“CAFTA–DR”) countries, Colombia, Jordan, Panama, Peru, and Singapore, individually, are not a substantial cause of serious injury or threat thereof, under

the respective implementing legislation for the FTAs with these countries. See 19 U.S.C. 2112 note (Jordan); 19 U.S.C. 3805 note (Australia, Colombia, Korea, Panama, Peru, Singapore); 19 U.S.C. 4101 (CAFTA–DR). The Commission also found that the serious injury substantially caused by imports to the domestic industry producing a like or directly competitive article does not result from the reduction or elimination of any duty provided for under the U.S.-Israel Free Trade Agreement or from duty-free treatment provided for under the Caribbean Basin Economic Recovery Act (“CBERA”) provisions of the Caribbean Basin Initiative Trade Program or the Generalized System of Preferences (“GSP”) program. 19 U.S.C. 2112 note (Israel); 19 U.S.C. 2703(e) (CBERA); 19 U.S.C. 2253(e)(6) (GSP).

Remedy recommendations. In order to address the serious injury to the domestic industry producing CSPV products and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition, the Commission recommended a series of actions.

With regard to CSPV cells, Chairman Schmidlein recommends a tariff-rate quota with an in-quota tariff rate of 10

percent ad valorem and an in-quota volume level of 0.5 gigawatts. For U.S. imports of cells that exceed the 0.5 gigawatts volume level, she recommends a tariff rate of 30 percent ad valorem. Chairman Schmidlein recommends that this tariff-rate quota be implemented for four years and that the in-quota level be incrementally raised and the tariff rate be incrementally reduced during the remedy period. With regard to CSPV modules, she recommends an ad valorem tariff rate of 35 percent to be incrementally reduced during the 4-year remedy period. Chairman Schmidlein also recommends that the President initiate international negotiations to address the underlying cause of the increase in imports of CSPV products and alleviate the serious injury thereof. Having made findings that U.S. imports from Australia, the CAFTA–DR countries, Colombia, Israel, Jordan, Panama, Peru, Singapore, and the beneficiary countries under CBERA were not a substantial cause of the serious injury experienced by the domestic industry, Chairman Schmidlein recommends to the President that U.S. imports from these countries be excluded from the remedy.

CHAIRMAN SCHMIDTLEIN’S RECOMMENDED REMEDY

	Year 1	Year 2	Year 3	Year 4
<i>Cells: Tariff rate Quota:</i>				
In-Quota Tariff Rate	10%	9.5%	9.0%	8.5%.
In-Quota Volume Level ..	0.5 gigawatts	0.6 gigawatts	0.7 gigawatts	0.8 gigawatts.
Out-of-Quota Tariff Rate	30%	29%	28%	27%.
<i>Modules: Tariff (Ad Valorem)</i>				
	35%	34%	33%	32%.

Vice Chairman David S. Johanson and Commissioner Irving A. Williamson recommend that for a 4-year period the President impose (1) a tariff-rate quota on imports of CSPV products in cell form, and (2) increased rates of duty on imports of CSPV products in module form. For imports of CSPV products in cell form, they recommend an additional 30 percent ad valorem tariff on imports in excess of 1 gigawatt. In each subsequent year, they recommend that this tariff rate decrease by five percentage points and that the in-quota amount increase by 0.2 gigawatts. The rate of duty on in-quota CSPV products in cell form will remain unchanged. For imports of CSPV products in module form, Vice Chairman Johanson and Commissioner Williamson recommend an additional 30 percent ad valorem tariff, to be phased down by five percentage points per year in each of the subsequent years. Having made a negative finding with respect to imports

from Canada under section 311(a) of the North American Free Trade Agreement Implementation Act, they recommend that such imports be excluded from the above tariff-rate quota and increased rates of duty. Further, Vice Chairman Johanson and Commissioner Williamson recommend that the above tariff-rate quota and increased rates of duty not apply to imports from the following countries with which the United States has FTAs: Australia, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Nicaragua, Panama, Peru, and Singapore. They also recommend that the tariff-rate quota and increased rates of duty not apply to imports from the CBERA beneficiary countries. Vice Chairman Johanson and Commissioner Williamson recommend that the President direct the United States Department of Labor and the United States Department of Commerce to provide expedited consideration of

any application for trade adjustment assistance for workers and/or firms that are affected by subject imports. They recommend the President’s consideration of the product exclusions requested by Respondents to which Petitioners have not objected and have indicated they would work to draft appropriate product-specific exclusions. Finally, they recommend that the President also consider any appropriate funding mechanisms that may facilitate a positive adjustment to import competition.

Commissioner Meredith M. Broadbent recommends that the President impose a quantitative restriction on imports of CSPV products into the United States, including cells and modules, for a four-year period, administered on a global basis. She recommends that the quantitative restriction be set at 8.9 gigawatts in the first year and increase by 1.4 gigawatts each subsequent year. In accordance with section 1102 of the

Trade Agreements Act of 1979 (19 U.S.C. 2581) and the President's authority in section 203(a)(3)(F) of the Trade Act of 1974 (19 U.S.C. 2253(a)(3)(F)), she also recommends that the President administer these quantitative restrictions by selling import licenses at public auction at a minimum price of one cent per watt. She recommends that the President, to the extent permitted by law, authorize the use of funds equal to the amount generated by import license auctions to provide development assistance to domestic CSPV product manufacturers for the duration of the remedy period, such as through authorized programs at the United States Department of Energy (DOE). Commissioner Broadbent also recommends that the President implement other appropriate adjustment measures, including the provision of trade adjustment assistance by the United States Department of Labor and the United States Department of Commerce to workers and firms affected by import competition. Having made an affirmative finding with respect to imports from Mexico under section 311(a) of the NAFTA Implementation Act, she recommends that the President allocate no less than 720 megawatts to Mexico during the first year within the global quantitative restriction, which would expand by 115 megawatts each year. Having made a negative finding with respect to imports from Canada under section 311(a) of the NAFTA Implementation Act, Commissioner Broadbent recommends that such imports be excluded from the quantitative restriction. Furthermore, she recommends that this quantitative restriction not apply to imports from Australia, the CAFTA-DR countries, Colombia, Israel, Jordan, Panama, Peru, Singapore, and the CBERA beneficiary countries.

Availability of the public version of the report. The public version of the Commission's report containing the Commission's injury determination, its remedy recommendations, an explanation of the basis for its injury determination and remedy recommendations, and a summary of the information obtained in the investigation is contained in *Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)*, Inv. No. 201-TA-75, USITC Publication 4739 (Nov. 2017).

By order of the Commission.

Issued: November 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-25134 Filed 11-20-17; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1023]

Certain Memory Modules Components Thereof, and Products Containing Same; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge ("ALJ") has issued a Final Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation of section 337. The ALJ recommended, should the Commission find a violation, that the Commission issue a limited exclusion order directed against certain memory modules and components thereof, and products containing same imported by respondents SK Hynix Inc. of Gyeonggi-do, Republic of Korea; and SK Hynix America, Inc. and SK Hynix Memory Solutions Inc., both of San Jose, California. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT:

Clint A. Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation

it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competition conditions in the United States economy, the production of like or directly competitive articles in the United States consumers, it finds that such articles should not be excluded from entry. 19 U.S.C. 1337(d)(1).

The Commission is interested in further development of the record on the public interest in its investigations. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on November 14, 2017. Comments should address whether issuance of a remedial order in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended order are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the recommended orders;
- (iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) Explain how the recommended order would impact consumers in the United States.

Written submissions must be filed by the close of business on December 21, 2017.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to Commission Rule 210.4(f), CFR part 210.4(f). Submissions should refer to the investigation number ("Inv.

No. 337-TA-1023”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR part 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,¹ solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 16, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-25181 Filed 11-20-17; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 14, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of New York in the lawsuit entitled *United States v. Beazer East, Inc. et al.*, Civil Action No. 17-1165.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States’ complaint names Beazer East, Inc., CBS Corporation, Chemung County, the City of Elmira, the Elmira Water Board, Hardinge Inc., Toshiba America Inc., the Town of Horseheads, and the Village of Horseheads, as defendants. The complaint requests recovery of costs and injunctive relief related to responding to releases of hazardous substances at or from the Fourth Operable Unit (“OU4”) of the Kentucky Avenue Wellfield Superfund Site located in the Village of Elmira Heights, the Town of Horseheads, and the Village of Horseheads, New York. Under the proposed Consent Decree, the nine Settling Defendants agree to perform the remedy selected by the Environmental Protection Agency (“EPA”) for OU4 and pay the United States’ future response costs related to OU4. The Statement of Work, included as Appendix B to the Decree, provides the framework for implementation of the cleanup plan as set forth in the Record of Decision (“ROD”) signed by the Regional Administrator for Region 2 of EPA in September 2016. The State of New York concurred with respect to the selected remedy. The selected remedy calls for the construction of a nine-acre cap over the footprint of Koppers Pond, with the cap comprised of a geotextile membrane covered by a six-inch layer of soil and sand. Institutional controls will also be imposed to control activities and use at OU4 to preserve the integrity of the cap. The Remedial Design, Remedial Action, and Operations and Maintenance at OU4 are estimated to cost approximately \$1.9 million and the Settling Defendants will pay any United States Future Response Costs related to OU4. The United States has provided all of the Settling Defendants with a covenant not to sue under Sections 106 and 107(a) of CERCLA, relating to OU4, subject to certain reservations.

The publication of this notice opens a period for public comment on the

Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Beazer East, Inc., et al.*, Civil Action No. 17-1165, D.J. Ref. No. 90-11-2-1224/2. 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:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$22.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits the cost is \$14.50.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017-25147 Filed 11-20-17; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Current Population Survey—Basic Labor Force

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, “Current Population Survey—Basic Labor Force,” to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

¹ All contract personnel will sign appropriate nondisclosure agreements.

DATES: The OMB will consider all written comments that agency receives on or before December 21, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1220-002 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Current Population Survey (CPS)—Basic Labor Force information collection. The labor force data collected in the CPS help to determine the employment situation of specific population groups as well as general trends in employment and unemployment. The survey is the only source of monthly data on total employment and unemployment. The *Employment Situation Report* contains data from this survey, and it is designated a Principle Federal Economic Indicator; moreover, the survey also yields data on the basic status and characteristics of persons not in the labor force. CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which, and with what success, the various components of the American population are participating in the economic life of the nation. This

information collection is authorized by 13 U.S.C. 182 and 29 U.S.C. 2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220-0100.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 19, 2017 (82 FR 27873).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220-0100. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Agency: DOL-BLS.
Title of Collection: Current Population Survey—Basic Labor Force.

OMB Control Number: 1220-0100.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 53,000.

Total Estimated Number of Responses: 636,000.

Total Estimated Annual Time Burden: 80,560 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: November 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-25111 Filed 11-20-17; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Office of the Secretary

Request for Comments on Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor and Office of the United States Trade Representative.

ACTION: Request for comments from the public.

SUMMARY: This notice is a request for comments from the public to assist the Secretary of Labor and the United States Trade Representative in preparing a report on labor capacity-building efforts under Chapter 16 (“the Labor Chapter”) and Annex 16.5 of the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA-DR”). Comments are also welcomed on efforts made by the CAFTA-DR countries to implement the labor obligations under the Labor Chapter and the recommendations contained in a paper entitled, “The Labor Dimension in Central America and the Dominican Republic—Building on Progress: Strengthening Compliance and Enhancing Capacity” (the “White Paper”). This report is required under the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act). The reporting function and the responsibility for soliciting public comments required under this Act were assigned to the Secretary of Labor in

consultation with the United States Trade Representative (USTR).

DATES: Written comments are due no later than 5 p.m. (EDT) January 2, 2018.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, the Federal e-rulemaking portal. Comments may also be submitted by postal or electronic mail to: Mr. Graham Robertson, Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5006, Washington, DC 20210, Robertson.Alistair.G@dol.gov.

Comments that are mailed must be received by the date indicated for consideration. Also, please note that due to security concerns, postal delivery in Washington, DC may be delayed. Therefore, in order to ensure that comments receive full consideration, the Department encourages the public to submit comments via the internet as indicated above. Please submit only one copy of your comments by only one method. Also, please be advised that comments received will become a matter of public record and will be posted without change to <http://www.regulations.gov>, including any personal information provided. The Department cautions commenters not to include personal information, such as Social Security Numbers, personal addresses, telephone numbers, and email addresses in their comments as such information will become viewable by the public on the <http://www.regulations.gov> Web site. It is each commenter's responsibility to safeguard his or her information. Comments submitted through <http://www.regulations.gov> will not include the commenter's email address unless the commenter chooses to include that information as part of his or her comment. If you are unable to provide submissions by either of these means, please contact Graham Robertson (202-693-4818) to arrange for an alternative method of submission.

FOR FURTHER INFORMATION CONTACT: Mr. Graham Robertson, Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5006, Washington, DC 20210. Email: Robertson.Alistair.G@DOL.Gov, Telephone: (202) 693-4818.

SUPPLEMENTARY INFORMATION:

1. Background Information

During the legislative approval process for the CAFTA-DR, the Administration and the Congress reached an understanding on the need

to support labor capacity-building efforts linked to recommendations identified in the "White Paper" of the Working Group of the Vice Ministers Responsible for Trade and Labor in the countries of Central America and the Dominican Republic. Appropriations have been made available from FY 2005 through 2017 to support labor capacity building efforts in CAFTA-DR countries. For more information, see the full text of the CAFTA-DR at <https://ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta/final-text> and the "White Paper" at http://www.sice.oas.org/labor/White%20Paper_e.pdf.

In addition, in December 2006, the U.S. Department of Labor (USDOL) published its procedural guidelines for the receipt and review of submissions under U.S. Free Trade Agreements, including the CAFTA-DR (71 FR 76691 Dec. 21, 2006). Subsequently, pursuant to CAFTA-DR Article 16.4.2, in November 2008, the United States and CAFTA-DR partner countries held the first Labor Affairs Council meeting in San Salvador, El Salvador. Since the CAFTA-DR came into force, USDOL's Office of Trade and Labor Affairs (OTLA) has accepted three submissions under the labor chapter of the CAFTA-DR. In February 2015, OTLA issued a public report on its review of a submission regarding Honduras, and in December of that year the United States and Honduras signed a comprehensive monitoring and action plan that addresses gaps in enforcement of Honduran labor law outlined in OTLA's public report. In September 2013, OTLA issued a public report in response to a submission regarding the Dominican Republic and since then, the Department of Labor has been engaging with the Dominican Republic on the issues identified in the report. With respect to a submission regarding Guatemala, OTLA issued a public report in January 2009, and the United States Trade Representative requested the establishment of an arbitral panel in August 2011, pursuant to Article 20.6.1, to consider whether the Government of Guatemala was conforming to its obligations under Article 16.2.1(a) of the CAFTA-DR. In November 2012, the parties agreed to suspend panel proceedings while the parties negotiated and implemented an Enforcement Plan. In an attempt to resolve the dispute, the Panel resumed its work in September 2013 and issued its final report on June 14, 2017. The Panel's findings confirmed the U.S. view that Guatemala's enforcement failures, in

particular with respect to laws protecting the right of association, the right to organize and bargain collectively, and acceptable conditions of work including occupational safety and health, minimum wage, and hours of work, are a serious concern, but determined that evidence did not establish other required elements necessary to prove a violation of CAFTA-DR. Under CAFTA-DR, the panel decision is final; there is no appeal process.

Under section 403(a) of the CAFTA-DR Implementation Act, 19 U.S.C. 4111(a), the President must report biennially to the Congress on the progress made by the CAFTA-DR countries in implementing the labor obligations and the labor capacity-building provisions found in the Labor Chapter and in Annex 16.5, and in implementing the recommendations contained in the "White Paper." Section 403(a)(4) requires that the President establish a mechanism to solicit public comments on the matters described in section 403(a)(3)(D) of the CAFTA-DR Implementation Act, 19 U.S.C. 4111(a)(4) (listed below in 2).

By Proclamation, the President delegated the reporting function and the responsibility for soliciting public comments under section 403(a) of the CAFTA-DR Implementation Act, 19 U.S.C. 4111(a), to the Secretary of Labor, in consultation with the USTR (Proclamation No. 8272, 73 FR 38,297 (June 30, 2008)). This notice serves to request public comments as required by this section.

2. The USDOL Is Seeking Comments on the Following Topics as Required Under Section 403(a)(3)(D) of the CAFTA-DR Implementation Act

a. Capacity-building efforts by the United States government envisaged by Article 16.5 of the CAFTA-DR Labor Chapter and Annex 16.5;

b. Efforts by the United States government to facilitate full implementation of the "White Paper" recommendations; and

c. Efforts made by the CAFTA-DR countries to comply with Article 16.5 of the Labor Chapter and Annex 16.5 and to fully implement the "White Paper" recommendations, including progress made by the CAFTA-DR countries in affording to workers internationally-recognized worker rights through improved capacity.

3. Requirements for Submission

Persons submitting comments must do so in English and must make the following note on the first page of their submissions: "Comments regarding the

CAFTA–DR Implementation Act.” In order to be assured consideration, comments should be submitted by 5 p.m. (EDT), January 2, 2018. The Department of Labor encourages commenters to make on-line submissions using the www.regulations.gov Web site. When entering this site, enter “Request for Comments on Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement” on the home page search bar and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now.” (For further information on using the www.regulations.gov Web site, please consult the resources provided on the Web site by clicking on “How to Use This Site” (found on the bottom of the home page under “Help”).)

The www.regulations.gov Web site allows users to provide comments by filling in a “Type Comment field,” or by attaching a document using an “Upload File” field. The USDOL prefers that uploaded submissions be in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “Type Comment” field.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself and not as separate files.

As noted, USDOL strongly urges submitters to file comments through the www.regulations.gov Web site.

Comments will be open to public inspection. Comments may be viewed on the www.regulations.gov Web site.

Signed at Washington, DC, on November 9, 2017.

Martha E. Newton,

Deputy Undersecretary.

[FR Doc. 2017–25012 Filed 11–20–17; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the “National Compensation Survey.” A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before January 22, 2018.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number.) (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, State, and local government. Data from the NCS program include estimates of wages covering broad groups of related occupations, and data that directly links benefit plan costs with detailed plan provisions. The NCS is used to produce the Employment Cost Trends, including the Employment Cost Index (ECI) and Employer Costs for Employee Compensation (ECEC), employee benefits data (on coverage, cost and provisions), data used by the President’s Pay Agent and this data is used by compensation administrators and researchers in the private sector. Data from the NCS are used to help in

determining monetary policy (as a Principal Federal Economic Indicator.)

The integrated program’s single sample produces both time-series indexes and cost levels for industry and occupational groups, thereby increasing the analytical potential of the data.

The NCS employs probability methods for selection of occupations. This ensures that sampled occupations represent all occupations in the workforce, while minimizing the reporting burden on respondents. The survey collects data from a sample of employers. These data will consist of information about the duties, responsibilities, and compensation (earnings and benefits) for a sample of occupations for each sampled employer.

Data will be updated on a quarterly basis. The updates will allow for production of data on change in earnings and total compensation.

II. Current Action

Office of Management and Budget clearance is being sought for the National Compensation Survey.

The NCS collects earnings and work level data on occupations for the nation. The NCS also collects information on the cost, provisions, and incidence of major employee benefits through its benefit cost and benefit provision programs and publications.

BLS has for a number of years been using a revised approach to the Locality Pay Survey (LPS); this uses data from two current BLS programs—the Occupational Employment Statistics (OES) survey and the ECI program. This approach uses OES data to provide wage data by occupation and by area, while ECI data are used to specify grade level effects. This approach is also being used to extend the estimation of pay gaps to areas that were not included in the prior Locality Pay Survey sample, and these data have been delivered to the Pay Agent (in 2014, data for 92 areas were delivered.)

The NCS has a national survey design for the ECI and the EBS. The NCS private industry sample is on a three-year rotational cycle, with one frozen sample year every ten years for the NCS private industry sample when a new NCS State and local government sample starts (approximately in 2025).

The NCS continues to provide employee benefit provision and participation data. These data include estimates of how many workers receive the various employer-sponsored benefits. The data also include information about the common provisions of benefit plans.

NCS collection will use a number of collection forms (normally having

unique private industry and government initiation and update collection forms and versions). For NCS update collection, the forms or screens give respondents their previously reported information, the dates they expected change to occur to these data, and space for reporting these changes.

The NCS for electronic collection uses a Web-based system (Web-Lite) that allows NCS respondents, using Secure Sockets Layer (SSL) encryption and the establishment's schedule number, to upload data files to a secure BLS server and forwards those files to the assigned BLS field economist.

Some benefits (called "Other benefits") data are collected to track the emergence of new or changing benefits over time. The BLS only asks whether sampled occupations receive these benefits and periodically modifies this list. With this clearance, BLS is

removing subsidized commuting and stock options from Other benefit collection. BLS is adding the collection of student loan repayments and flexible work schedules.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: National Compensation Survey.

OMB Number: 1220-0164.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal government.

Total Respondents: 15,863 (three-year average).

All figures are based on a three-year average. The total responses are higher as some respondents are contacted multiple times.

	Respondents	Average responses per year	Total number of responses	Average minutes	Total hours
Three-year average	15863	3.1579	50094	52.96685	44222

COLLECTION FORMS

National Compensation Survey (Private Industry sample).	NCS 18-1P, NCS 18-2P, NCS 18-5P, NCS-9P, SO-1003P, E-update, IDCF.	Establishment Form, Earnings Form, Benefits Form, Earning Update Form, Benefits Update Form, E-update Screen, NCS IDCF Screen.
National Compensation Survey (State and local government sample).	NCS 18-1G, NCS 18-2G, NCS 18-5G, NCS-9G, SO-1003G, E-update, IDCF.	Establishment Form, Earnings Form, Benefits Form, Earning Update Form, Benefits Update Form, E-update Screen, NCS IDCF Screen.

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

Signed at Washington, DC, this 14th day of November 2017.

Kimberley Hill,

Chief, Division of Management Systems.

[FR Doc. 2017-25110 Filed 11-20-17; 8:45 am]

BILLING CODE 4510-24-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2018-004]

Advisory Committee on the Records of Congress

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Advisory Committee Meeting; Records of Congress.

SUMMARY: We are announcing a meeting of the Advisory Committee on the

Records of Congress, in accordance with the Federal Advisory Committee Act. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM).

DATES: This meeting will be on December 6, 2017, from 10:00 a.m. to 11:30 a.m.

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Sharon Shaver, by mail at the Center for Legislative Archives (LL), National Archives Building, 700 Pennsylvania Avenue NW., Washington, DC 20408, by telephone at (202) 357-5350, or by email at sharon.shaver@nara.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. However, due to space limitations and access procedures, you must submit the

name and telephone number of individuals planning to attend to the Center for Legislative Archives no later than Friday, December 1, 2017. The Center will provide additional instructions for accessing the meeting's location.

Agenda

- (1) Chair's opening remarks—Clerk of the U.S. House of Representatives
- (2) Recognition of co-chair—Secretary of the U.S. Senate
- (3) Recognition of the Archivist of the United States
- (4) Approval of the minutes of the last meeting
- (5) House Archivist's report
- (6) Senate Archivist's report
- (7) Center for Legislative Archives update
- (8) Other current issues and new business

The meeting is open to the public.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2017-25135 Filed 11-20-17; 8:45 am]

BILLING CODE 7515-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2017-0220]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from October 24, 2017 to November 6, 2017. The last biweekly notice was published on November 7, 2017.

DATES: Comments must be filed by December 21, 2017. A request for a hearing must be filed by January 22, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0220. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN-2-A13, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001.

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

FOR FURTHER INFORMATION CONTACT:

Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5411, email: Shirley.Rohrer@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2017-0220, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0220.

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

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

B. Submitting Comments

Please include Docket ID NRC-2017-0220, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of

issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (First Floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must

include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the

petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c). If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in

accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the

NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some

instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the "Obtaining Information and Submitting Comments" section of this document.

Entergy Nuclear Operations, Inc.,
Docket No. 50-255, Palisades Nuclear
Plant (PNP), Van Buren County,
Michigan

Date of amendment request: August 31, 2017. A publicly-available version is in ADAMS under Accession No. ML17248A389.

Description of amendment request: The proposed amendment would revise the PNP Site Emergency Plan (SEP) for the permanently shut down and defueled condition. The proposed PNP SEP changes would revise the shift staffing and Emergency Response Organization (ERO) staffing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the PNP SEP do not impact the function of plant structures, systems, or components (SSCs). The proposed changes do not affect accident initiators or precursors, nor does it alter design assumptions. The proposed changes do not prevent the ability of the on-shift staff and augmented ERO to perform their intended functions to mitigate the consequences of any accident or event that will be credible in the permanently shut down and defueled condition. The proposed changes only remove positions that will no longer be credited in the PNP SEP.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes reduce the number of on-shift and augmented ERO positions commensurate with the hazards associated with a permanently shut down and defueled facility. The proposed changes do not involve installation of new equipment or modification of existing equipment, so that no new equipment failure modes are introduced. Also, the proposed changes do not result in a change to the way that the equipment or facility is operated so that no new accident initiators are created.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.*, fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes are associated with the PNP SEP and do not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Safety analysis acceptance criteria are not affected by the proposed changes. The revised PNP SEP will continue to provide the necessary response staff with the proposed changes.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company (EGC), LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois and Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of amendment request: September 1, 2017. A publicly-available version is in ADAMS under Accession No. ML17244A093.

Description of amendment request: The amendments would modify the licensing basis by the addition of a license condition to allow for the implementation of the provisions of 10

CFR, Section 50.69, “Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors.”

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs [structures, systems, and components] subject to NRC [Nuclear Regulatory Commission] special treatment requirements and to implement alternative treatments per the regulations. The process used to evaluate SSCs for changes to NRC special treatment requirements and the use of alternative requirements ensures the ability of the SSCs to perform their design function. The potential change to special treatment requirements does not change the design and operation of the SSCs. As a result, the proposed change does not significantly affect any initiators to accidents previously evaluated or the ability to mitigate any accidents previously evaluated. The consequences of the accidents previously evaluated are not affected because the mitigation functions performed by the SSCs assumed in the safety analysis are not being modified. The SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition following an accident will continue to perform their design functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not change the functional requirements, configuration, or method of operation of any SSC. Under the proposed change, no additional plant equipment will be installed.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not

affect any Safety Limits or operating parameters used to establish the safety margin. The safety margins included in analyses of accidents are not affected by the proposed change.

The regulation requires that there be no significant effect on plant risk due to any change to the special treatment requirements for SSCs and that the SSCs continue to be capable of performing their design basis functions, as well as to perform any beyond design basis functions consistent with the categorization process and results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenton, IL 60555.

NRC Branch Chief: David J. Wrona.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: August 30, 2017, as supplemented by letter dated October 24, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17243A014 and ML17297B521, respectively.

Description of amendment request: The amendments would modify the licensing basis by the addition of a license condition to allow for the implementation of the provisions of 10 CFR 50.69, “Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors.”

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, with NRC staff edits shown in square brackets:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of [structures, systems, and components] SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The process used to evaluate SSCs for changes to NRC special treatment

requirements and the use of alternative requirements ensures the ability of the SSCs to perform their design function. The potential change to special treatment requirements does not change the design and operation of the SSCs. As a result, the proposed change does not significantly affect any initiators to accidents previously evaluated or the ability to mitigate any accidents previously evaluated. The consequences of the accidents previously evaluated are not affected because the mitigation functions performed by the SSCs assumed in the safety analysis are not being modified. The SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition following an accident will continue to perform their design functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not change the functional requirements, configuration, or method of operation of any SSC. Under the proposed change, no additional plant equipment will be installed.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not affect any Safety Limits or operating parameters used to establish the safety margin. The safety margins included in analyses of accidents are not affected by the proposed change. The regulation requires that there be no significant effect on plant risk due to any change to the special treatment requirements for SSCs and that the SSCs continue to be capable of performing their design basis functions, as well as to perform any beyond design basis functions consistent with the categorization process and results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Rd., Warrenville, IL 60555.

NRC Branch Chief: James G. Danna.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: September 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17275A069.

Description of amendment request: The amendments would revise Technical Specification (TS) requirements related to the direct current (DC) electrical power system. The proposed changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–500, Revision 2, “DC Electrical Rewrite—Update to TSTF–360.”

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change restructures the TS for the direct current (DC) electrical power system. The proposed changes add actions to specifically address battery charger inoperability. The DC electrical power system, including associated battery chargers, is not an initiator of any accident sequence analyzed in the Updated Final Safety Analysis Report (UFSAR). Operation in accordance with the proposed TS ensures that the DC electrical power system is capable of performing its function as described in the UFSAR. Therefore, the mitigative functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis, and the probability of previously analyzed accidents will not increase by implementing these changes.

The relocation of preventive maintenance surveillances, and certain operating limits and actions, to a newly created licensee-controlled Battery Monitoring and Maintenance Program will not challenge the ability of the DC electrical power system to perform its design function. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, “Requirements for monitoring the effectiveness of maintenance at nuclear power plants,” which will ensure the control of maintenance activities associated with the DC electrical power system.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the UFSAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves restructuring the TS for the DC electrical power system. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the UFSAR. Rather, the DC electrical power system is used to supply equipment used to mitigate an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new battery maintenance and monitoring program will ensure that the station batteries are maintained in a highly reliable manner. The equipment fed by the DC electrical sources will continue to provide adequate power to safety related loads in accordance with analysis assumptions.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Rd., Warrenville, IL 60555.

NRC Branch Chief: James G. Danna.

Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 2, 2017. A publicly-available version is in ADAMS under Accession No. ML17275A520.

Description of amendment request:

The amendment would revise the James A. FitzPatrick Nuclear Power Plant Technical Specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF-542, Revision 2, "Reactor Pressure Vessel Water Inventory Control" (ADAMS Accession No. ML16074A448). Specifically, the licensee proposed changes to replace TS requirements related to operations with a potential for draining the reactor vessel (OPDRVs) with new requirements on reactor pressure vessel (RPV) water inventory control (WIC) to protect Safety Limit 2.1.1.3.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. Draining of RPV water inventory in Mode 4 (*i.e.*, cold shutdown) and Mode 5 (*i.e.*, refueling) is not an accident previously evaluated, and therefore replacing the existing TS controls to prevent or mitigate such an event with a new set of controls has no effect on any accident previously evaluated. RPV water inventory control in Mode 4 or Mode 5 is not an initiator of any accident previously evaluated. The existing OPDRV controls or the proposed RPV WIC controls are not mitigating actions assumed in any accident previously evaluated.

The proposed changes reduce the probability of an unexpected draining event (which is not a previously evaluated accident) by imposing new requirements on the limiting time in which an unexpected draining event could result in the reactor vessel water level dropping to the top of the active fuel (TAF). These controls require cognizance of the plant configuration and control of configurations with unacceptably short drain times. These requirements reduce the probability of an unexpected draining event. The current TS requirements are only mitigating actions and impose no requirements that reduce the probability of an unexpected draining event.

The proposed changes reduce the consequences of an unexpected draining event (which is not a previously evaluated accident) by requiring an Emergency Core Cooling System (ECCS) subsystem to be operable at all times in Modes 4 and 5. The current TS requirements do not require any water injection systems, ECCS or otherwise, to be Operable in certain conditions in Mode 5. The change in requirement from two ECCS subsystems to one ECCS subsystem in Modes 4 and 5 does not significantly affect the

consequences of an unexpected draining event because the proposed Actions ensure equipment is available within the limiting drain time that is as capable of mitigating the event as the current requirements. The proposed controls provide escalating compensatory measures to be established as calculated drain times decrease, such as verification of a second method of water injection and additional confirmations that containment and/or filtration would be available if needed.

The proposed changes reduce or eliminate some requirements that were determined to be unnecessary to manage the consequences of an unexpected draining event, such as automatic initiation of an ECCS subsystem and control room ventilation. These changes do not affect the consequences of any accident previously evaluated since a draining event in Modes 4 and 5 is not a previously evaluated accident and the requirements are not needed to adequately respond to a draining event.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. The proposed changes will not alter the design function of the equipment involved. Under the proposed changes, some systems that are currently required to be operable during OPDRVs would be required to be available within the limiting drain time or to be in service depending on the limiting drain time. Should those systems be unable to be placed into service, the consequences are no different than if those systems were unable to perform their function under the current TS requirements.

The event of concern under the current requirements and the proposed changes are an unexpected draining event. The proposed changes do not create new failure mechanisms, malfunctions, or accident initiators that would cause a draining event or a new or different kind of accident not previously evaluated or included in the design and licensing bases.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC. The current requirements do not have a stated safety basis and no margin of safety is established in the licensing basis. The safety basis for the new requirements is to protect Safety Limit 2.1.1.3. New requirements are added to determine the limiting time in which the RPV water inventory could drain to the top of the fuel in the reactor vessel should an

unexpected draining event occur. Plant configurations that could result in lowering the RPV water level to the TAF within one hour are now prohibited. New escalating compensatory measures based on the limiting drain time replace the current controls. The proposed TS establish a safety margin by providing defense-in-depth to ensure that the Safety Limit is protected and to protect the public health and safety. While some less restrictive requirements are proposed for plant configurations with long calculated drain times, the overall effect of the change is to improve plant safety and to add safety margin.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

NRC Branch Chief: James G. Danna.

Florida Power & Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Nuclear Generating Unit Nos. 3, and 4, Miami-Dade County, Florida

Date of amendment request: August 23, 2017, as supplemented by letter dated October 19, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17235B008 and ML17292A789, respectively.

Description of amendment request: The amendments would modify the Technical Specifications (TSs) to relocate the Explosive Gas Monitoring Instrumentation, Explosive Gas Mixture, and Gas Decay Tanks System requirements to licensee-controlled documents and establish a Gas Decay Tank Explosive Gas and Radioactivity Monitoring Program. The proposed amendments also relocate the Standby Feedwater System requirements to licensee-controlled documents and modify related Auxiliary Feedwater (AFW) System requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed license amendments modify the Turkey Point TS by relocating the Explosive Gas Monitoring Instrumentation, Explosive Gas Mixture, Gas Decay Tanks and Standby Feedwater System requirements to licensee controlled documents, by relatedly modifying the AFW System requirements and by establishing a Gas Decay Tank Explosive Gas and Radioactivity Monitoring Program. The proposed changes are administrative in nature and do not alter any plant equipment or the manner in which plant equipment is operated and maintained. All equipment limitations, applicable methodologies and surveillances are maintained by the proposed changes. In addition, the proposed changes to the AFW System requirements enhance plant safety. As such, the proposed changes cannot affect the initiators, the likelihood or the expected outcomes of any analyzed accidents.

Therefore, facility operation in accordance with the proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed license amendments modify the Turkey Point TS by relocating the Explosive Gas Monitoring Instrumentation, Explosive Gas Mixture, Gas Decay Tanks and Standby Feedwater System requirements to licensee controlled documents, by relatedly modifying the AFW System requirements and by establishing a Gas Decay Tank Explosive Gas and Radioactivity Monitoring Program. The proposed changes neither install or remove plant equipment nor alter any plant equipment design, configuration, or method of operation. Hence, no new failure mechanisms are introduced as a result of the proposed changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed license amendments modify the Turkey Point TS by relocating the Explosive Gas Monitoring Instrumentation, Explosive Gas Mixture, Gas Decay Tanks and Standby Feedwater System requirements to licensee controlled documents, by relatedly modifying the AFW System requirements and by establishing a Gas Decay Tank Explosive Gas and Radioactivity Monitoring Program. The proposed changes neither involve changes to safety analyses assumptions, safety limits, or limiting safety system settings nor adversely impact plant operating margins or the reliability of equipment credited in safety analyses.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408-0420.

NRC Branch Chief: Undine Shoop.

NextEra Energy Duane Arnold, LLC, Docket No. 50-331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request:

September 5, 2017. A publicly-available version is in ADAMS under Accession No. ML17248A284.

Description of amendment request:

The proposed amendment would revise DAEC Technical Specifications 3.5.1, "ECCS [emergency core cooling system]-Operating." The proposed change would decrease the nitrogen supply requirement for the Automatic Depressurization System (ADS) in Surveillance Requirement (SR) 3.5.1.3 from 100 days to 30 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change modifies a SR for verification of the nitrogen supply for the ADS accumulators. Accidents are initiated by the malfunction of plant equipment, or the catastrophic failure of plant structures, systems or components. The performance of this surveillance is not a precursor to any accident previously evaluated and does not change the manner in which the ADS operates. Technical evaluation of the change concluded that a 30-day nitrogen supply is more than adequate to ensure that the reactor is depressurized, so the consequences of an accident remain unchanged.

Therefore, the proposed change does not involve a significant increase in the probability or consequence of a previously evaluated accident.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve physical alterations to the plant. No new or different type of equipment will be installed, and there are no physical modifications required to existing installed equipment associated with the proposed change. The proposed change does not create any failure

mechanism, malfunction or accident initiator not already considered in the design and licensing basis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Although the proposed change will decrease the required supply of nitrogen for the ADS accumulators from 100 days to 30 days, the assessment above has shown that the reactor would be depressurized within 3 days following any postulated accident or event that would create a hostile environment in the drywell. Once initial depressurization is completed, long term core cooling can be assured without ADS.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, P.O. Box 14000, Juno Beach, FL 33408-0420.

NRC Branch Chief: David J. Wrona.

NextEra Energy Duane Arnold, LLC, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 31, 2017. A publicly-available version is in ADAMS under Accession No. ML17243A469.

Description of amendment request:

The proposed amendment would modify the licensing basis by the addition of a license condition to allow for the implementation of the provisions of 10 CFR, part 50.69, "Risk-Informed Categorization and Treatment of Structures, Systems, and Components (SSCs) for Nuclear Power Reactors."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The process used to evaluate SSCs for changes to NRC special treatment

requirements and the use of alternative requirements ensures the ability of the SSCs to perform their design function. The potential change to special treatment requirements does not change the design and operation of the SSCs. As a result, the proposed change does not significantly affect any initiators to accidents previously evaluated or the ability to mitigate any accidents previously evaluated. The consequences of the accidents previously evaluated are not affected because the mitigation functions performed by the SSCs assumed in the safety analysis are not being modified. The SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition following an accident will continue to perform their design functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not change the functional requirements, configuration, or method of operation of any SSC. Under the proposed change, no additional plant equipment will be installed.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not affect any Safety Limits or operating parameters used to establish the safety margin. The safety margins included in analyses of accidents are not affected by the proposed change. The regulation requires that there be no significant effect on plant risk due to any change to the special treatment requirements for SSCs and that the SSCs continue to be capable of performing their design basis functions, as well as to perform any beyond design basis functions consistent with the categorization process and results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, P.O. Box 14000, Juno Beach, FL 33408-0420.

NRC Branch Chief: David J. Wrona.

NextEra Energy, Point Beach Nuclear Plant (PBNP), LLC, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 23, 2017, as supplemented by letter dated August 21, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17174A458, and ML17233A283, respectively.

Description of amendment request: The amendments would revise the Emergency Plan for PBNP to adopt the Nuclear Energy Institute's (NEI's) revised Emergency Action Level (EAL) scheme described in NEI 99-01, Revision 6, "Development of Emergency Action Levels for Non-Passive Reactors," which has been endorsed by the NRC.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. No actual facility equipment or accident analyses are affected by the proposed changes.

The change revises the NextEra Emergency Action Levels to be consistent with the NRC endorsed EAL scheme contained in NEI 99-01, Revision 6, "Methodology for Development of Emergency Action Levels," but does not alter any of the requirements of the Operating License or the Technical Specifications.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed change does not create any new failure modes for existing equipment or any new limiting single failures. Additionally, the proposed change does not involve a change in the methods governing normal plant operation, and all safety functions will continue to perform as

previously assumed in the accident analyses. Thus, the proposed change does not adversely affect the design function or operation of any structures, systems, and components important to safety. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed change will have no effect on the availability, operability, or performance of safety-related systems and components. The proposed change will not adversely affect the operation of plant equipment or the function of equipment assumed in the accident analysis. The proposed amendment does not involve changes to any safety analyses assumptions, safety limits, or limiting safety system settings. The changes do not adversely impact plant operating margins or the reliability of equipment credited in the safety analyses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney—Nuclear, Florida Power & Light Company, P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0420.

NRC Branch Chief: David J. Wrona.

PSEG Nuclear LLC and Exelon Generation Company, LLC, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 27, 2017. A publicly-available version is in ADAMS under Accession No. ML17270A076.

Description of amendment request: The amendments would relocate the reactor coolant system pressure isolation valve (RCS PIV) table from the technical specifications (TSs) to the technical requirements manual (TRM). The request would also remove references to the table and move all notes and leakage acceptance criteria from the table to the TS surveillance requirements.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the TS will not alter the way any structure, system, or component (SSC) functions, and will not alter the manner in which the plant is operated. The proposed changes do not alter the design of any SSC. The relocation of the RCS PIV valve lists from the TS to the TRM is an administrative change. Future revisions to the TRM are subject to 10 CFR 50.59. Therefore the probability of an accident previously evaluated is not significantly increased.

The proposed changes do not alter the RCS PIV leakage limits contained in the TS nor do they alter the frequency for testing of the RCS PIV. Therefore, the consequences of an accident previously evaluated are not increased.

Therefore, these proposed changes do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a modification to the physical configuration of the plant or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirement or introduce a new accident initiator, accident precursor, or malfunction mechanism. The proposed changes are administrative in nature.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the RCS PIV TS are administrative in nature. The proposed changes do not alter the RCS PIV leakage limits contained in the TS nor do they alter the frequency for testing of the RCS PIV. The proposed changes will not result in changes to system design or setpoints that are intended to ensure timely identification of plant conditions that could be precursors to accidents or potential degradation of accident mitigation systems.

The proposed amendment will not result in a design basis or safety limit being exceeded or altered. Therefore, since the proposed changes do not impact the response of the plant to a design basis accident, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: James G. Danna.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: October 6, 2017. A publicly-available version is in ADAMS under Accession No. ML17279A715.

Description of amendment request: The proposed amendment would increase the Integrated Leak Rate Test (ILRT) Peak Calculated Containment Internal Pressure, P_a , listed in Technical Specification (TS) 6.8.4.g, "Containment Leakage Rate Testing Program," to remove the reference to Regulatory Guide (RG) 1.163, "Performance-Based Containment Leak Test Program," dated September 1995 and ANSI/ANS (American National Standards Institute/American Nuclear Society)—56.8–2002, "Containment System Leakage Testing Requirements," and to replace the reference of Nuclear Energy Institute (NEI) 94–01, Revision 3–A, "Industry Guideline for Implementing Performance-Based option of 10 CFR part 50, Appendix J," with NEI 94–01, Revision 2–A.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, with NRC staff edits in square brackets:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes involve removal of RG 1.163 and ANSI/ANS–56.8–2002 references, replacement of NEI 94–01, Revision 3–A with NEI 94–01, Revision 2–A, and an increase in the P_a [Peak Calculated Containment Internal Pressure] value for containment leakage testing. The activity does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the reactor containment itself and the testing requirements invoked to periodically

demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The integrity of the reactor containment is subject to two types of failure mechanisms which can be categorized as (1) activity based and (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The updated P_a value reflects the updated mass and energy release and containment response calculations, ensuring a sound technical basis for the local and integrated leakage tests.

To mitigate time-based mechanisms, the design and construction requirements of the containment itself combined with the containment inspections performed in accordance with ASME [American Society of Mechanical Engineers], Section XI and the Maintenance Rule serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by a Type A test. The change to the P_a value is less than 1 psid [per square inch differential]. Radiological consequences will continue to be evaluated at the Technical Specification allowed leakage, L_a [allowed leakage] of 0.20 percent by weight of air, which will not be increased despite the increase in P_a . As described in Section 3.5, past leakage testing yielded values well under L_a . Based on the above, neither the reference changes nor the P_a change involves a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes involve removal of RG 1.163 and ANSI/ANS–56.8–2002 references, replacement of NEI 94–01, Revision 3–A with NEI 94–01, Revision 2–A, and an increase in the P_a value for containment leakage testing. The reactor containment and the testing requirements invoked to periodically demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident. There are not any accident initiators or precursors affected by the revision. The proposed TS change does not involve a physical change to the plant or the manner in which the plant is operated or controlled.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes involve removal of RG 1.163 and ANSI/ANS-56.8-2002 references, replacement of NEI 94-01, Revision 3-A with NEI 94-01, Revision 2-A, and an increase in the P_a value for containment leakage testing. The proposed TS change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. Using the same analysis methodology as described in WCAP-10325-P-A [Westinghouse LOCA [loss-of-accident coolant] Mass and Energy Release Model for Containment Design], the updated mass and energy release and containment response analyses corrected input errors identified in the NSALs [Westinghouse Nuclear Safety Advisory Letters] described previously. As shown in Figure 1 [October 6, 2017, submittal], the correction of these errors resulted in a slightly higher predicted peak pressure than that of the current licensing basis but does not pose a significant challenge to the design limit.

The specific requirements and conditions of the Primary Containment Leak Rate Testing Program, as defined in the Technical Specifications, exist to ensure that the degree of reactor containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by the Technical Specification is maintained. The containment inspections performed in accordance with ASME, Section XI and the Maintenance Rule serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety that is in plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Type A, B, and C containment leakage tests specified in applicable codes and standards will continue to be met.

Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue NW., Washington, DC 20004.

NRC Branch Chief: Michael T. Markley.

Southern Nuclear Operating Company, Docket Nos. 52-025 and 52-026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: July 28, 2017. A publicly-available version is in ADAMS under Accession No. ML17209A759.

Description of amendment request: The amendment request proposes to revise Technical Specification Section 1.1 (TS), Definition of Actuation Logic Test, by adding a new TS Section 1.1 Definition of Actuation Logic Output Test (ALOT), revising existing Surveillance Requirements 3.3.15.1 and 3.3.16.1 and adding new Surveillance Requirements 3.3.15.2 and 3.3.16.2 to implement the new ALOT. This submittal requests approval of the license amendment that is necessary to implement these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(A), licensee has provided its analysis of the issue on no significant hazards consideration determination, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

There are no design changes associated with the proposed amendment. All design, material, and construction standards that were applicable prior to this amendment request will continue to be applicable.

The [Processor Module Self-Diagnostic (PMS)] will continue to function in a manner consistent with the plant design basis. There will be no changes to the PMS operating limits. The existing ACTUATION LOGIC TEST Surveillance Requirements are revised such that different portions of the PMS logic circuitry are tested on appropriate surveillance test frequencies.

The proposed change will not adversely affect accident initiators or precursors or adversely alter the design assumptions, conditions, and configuration of the facility, or the manner in which the plant is operated and maintained, with respect to such initiators or precursors.

The proposed changes will not alter the ability of structures, systems, and components (SSCs) to perform their specified safety functions to mitigate the consequences of an initiating event within the assumed acceptance limits.

Accident analysis acceptance criteria will continue to be met with the proposed changes. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the Updated Final Safety Analysis Report (UFSAR).

The applicable radiological dose acceptance criteria will continue to be met.

The proposed change revises the frequency of testing certain portions of the PMS logic circuitry, but does not physically alter any safety-related systems.

Therefore, the proposed amendment does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a different kind of accident from any accident previously evaluated?

Response: No.

With respect to any new or different kind of accident, there are no proposed design changes nor are there any changes in the method by which any safety-related plant SSC performs its specified safety function. The proposed change will not affect the normal method of plant operation or change any operating parameters. No equipment performance requirements will be affected. The proposed change will not alter any assumptions made in the safety analyses.

The proposed change revises the frequency of testing certain portions of the PMS logic circuitry. The proposed change does not involve a physical modification of the plant.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The existing ACTUATION LOGIC TEST Surveillance Requirements are revised such that different portions of the PMS logic circuitry are tested on appropriate surveillance test frequencies. The reliability of the PMS is such that not testing the Component Interface Module (CIM) logic and driver output circuits when the reactor is at power will have a net positive impact on Engineered Safety Feature Actuation System (ESFAS) availability. There will be a reduction in the potential for challenges to the safety systems, coupled with less time that the safety systems are unavailable.

There will be no effect on those plant systems necessary to effect the accomplishment of protection functions.

No instrument setpoints or system response times are affected. None of the acceptance criteria for any accident analysis will be changed.

The proposed change will have no impact on the radiological consequences of a design basis accident.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203-2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: August 18, 2017. A publicly-available version is in ADAMS under Accession No. ML17230A365.

Description of amendment request: The requested amendment proposes to depart from approved AP1000 Design Control Document (DCD) Tier 2 information (text) and involved Tier 2* information (as incorporated into the Updated Final Safety Analysis Report (UFSAR) as plant-specific DCD information).

This amendment request proposes increasing the design pressure of the main steam (MS) isolation valve (MSIV) compartments from 6.0 to 6.5 psi and proposes other changes to the licensing basis regarding descriptions of the MSIV compartments.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with Nuclear Regulatory Commission (NRC) staff's edits in square brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not adversely affect the operation of any structures, systems, and components inside or outside the auxiliary building that could initiate or mitigate abnormal events, e.g., accidents, anticipated operational occurrences, earthquakes, floods, tornado missiles, and turbine missiles, or their safety or design analyses, evaluated in the UFSAR. The changes do not adversely affect any design function of the auxiliary building or the structures, systems, and components contained therein. The ability of the affected auxiliary building main steam isolation valve compartments and adjacent rooms, including the main control room, to withstand the pressurization effects from the postulated pipe ruptures is not adversely affected by the increase in design pressure, since the structures, systems, and components therein remain qualified for this service.

Therefore, the proposed activity does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the operation of any systems or equipment that

might initiate a new or different kind of accident, or alter any [structure, system, and component (SSC)] such that a new accident initiator or initiating sequence of events is created. The proposed changes do not adversely affect the physical design and operation of the [in-containment refueling water storage tank (IRWST)] injection, drain, containment recirculation, and fourth-stage [automatic depressurization system (ADS)] valves, including as-installed inspections, and maintenance requirements, as described in the UFSAR. Therefore, the operation of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves is not adversely affected. These proposed changes do not adversely affect any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or nonsafety-related equipment. Therefore, this activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety for the design of the auxiliary building is maintained through continued use of approved codes and standards as stated in the UFSAR, and adherence to the assumptions used in the analyses of this structure and the events associated with this structure. The auxiliary building continues to be a seismic Category I building with all current structural safety margins maintained. The 3-hour fire rating requirements for the impacted auxiliary building walls are maintained. The equipment housed in the main steam isolation valve compartments continue to be environmentally qualified for their intended service in accordance with the approved codes and standards stated within the UFSAR. Thus, the requested changes will not adversely affect any safety-related equipment, design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested change, thus, no margin of safety is reduced. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: October 6, 2017. A publicly-available version is in ADAMS under Accession No. ML17279A084.

Description of amendment request: The amendment request proposes to depart from Tier 2 information in the Updated Final Safety Analysis Report (UFSAR) (which includes the plant-specific Design Control Document (DCD) Tier 2 information) and involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated combined license (COL) Appendix C information. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific DCD Tier 1 material departures. Specifically, the requested amendment proposes to depart from Tier 2 information in UFSAR Subsection 8.3.2.4 describing raceway and cable routing criteria and hazard protection, and involves related changes to plant-specific Tier 1 Table 3.3–6, inspections, tests, analyses, and acceptance criteria information, with corresponding changes to the associated COL Appendix C information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC staff edits in square brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Changes 1, 3 and 4 are clarifications only and do not represent a change to the minimum required separation distance between raceways. Change 2 reduces the required separation distances between raceways from those documented in [Institute of Electrical and Electronics Engineers (IEEE)] 384–1981. These reduced separation distances are based on specific tests performed on the specified raceway configurations, and the recommendations from those tests contained in the associated report. The NRC staff previously reviewed the descriptions of the ten tests documented in this report, including the ones applicable to the existing UFSAR exceptions, and concluded that they were acceptable, as documented in NUREG–1793, "Final Safety Evaluation Report Related to Certification of

the AP1000 Standard Design,” (Initial Report) Subsection 8.3.2.2.

The reduced separation does not adversely impact the ability to safely shutdown the plant, and maintain it shutdown. The referenced test report has shown a failure of a faulted cable will not propagate to a nearby target cable in way that adversely impacts its function.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Changes 1, 3 and 4 are clarifications only and do not represent a change to the minimum required separation distance between circuits. Change 2 reduces the required separation distances between circuits from those documented in IEEE 384–1981. This change does not result in a new accident initiator or impact a current accident initiator.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Changes 1, 3 and 4 are clarifications only and do not represent a change to the minimum required separation distance between circuits. Change 2 reduces the required separation distances between circuits from those documented in IEEE 384–1981. These reduced separation distances are based on specific tests performed on the specified raceway configurations, and the recommendations from those tests contained in the associated report. The NRC staff previously reviewed the descriptions of the ten tests documented in this report, including the ones applicable to the existing UFSAR exceptions, and concluded that they were acceptable, as documented in NUREG–1793, “Final Safety Evaluation Report Related to Certification of the AP1000 Standard Design,” (Initial Report) Subsection 8.3.2.2.

The reduced separation does not adversely impact the ability to safely shutdown the plant, and maintain it shutdown. The referenced test report has shown a failure of a faulted cable will not propagate to a nearby target cable in a way that adversely impacts its function.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee’s analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710

Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: July 10, 2017. A publicly-available version is in ADAMS under Accession No. ML17191B163.

Description of amendment request: The amendments would revise the technical specifications (TSs) by: (1) Adding a Note to the surveillance requirements (SRs) of TS 3.7.7, “Main Turbine Bypass System,” to clarify that the SRs are not required to be met when the limiting condition for operation (LCO) does not require the Main Turbine Bypass System to be operable, (2) clarifying that LCO 3.2.3, “LINEAR HEAT GENERATION RATE (LHGR),” also has limits for an inoperable Main Turbine Bypass System that are made applicable as specified in the Core Operating Limits Report, and (3) deleting an outdated footnote for LCO 3.2.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change (1) adds a Note to the Surveillance Requirements (SRs) of the Hatch Nuclear Plant (HNP) Unit 1 and Unit 2 Technical Specifications (TS) 3.7.7 clarifying that the SRs are not required to be met when the LCO does not require the Main Turbine Bypass System to be Operable, (2) clarifies that LCO 3.2.3, “LINEAR HEAT GENERATION RATE” also has limits for an inoperable Main Turbine Bypass System that are made applicable as specified in the Core Operating Limits Report, and (3) deletes an outdated footnote for LCO 3.2.3. The proposed change does not affect the requirement to meet the LCO, nor does it affect the requirements to perform the SRs when the Main Turbine Bypass System is being used to meet the LCO. This change simply clarifies the existing allowance to apply the Main Turbine Bypass System inoperable limits to minimum critical power ratio (MCPR) and linear heat generation rate (LHGR) in lieu of the requirement for the Main Turbine Bypass System to be Operable.

The current safety analysis evaluation is unaffected by this proposed change. The change regarding the outdated footnote has no effect on the actual TS requirements.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change (1) adds a Note to the Surveillance Requirements (SRs) of the Hatch Nuclear Plant (HNP) Unit 1 and Unit 2 Technical Specifications (TS) 3.7.7 clarifying that the SRs are not required to be met when the LCO does not require the Main Turbine Bypass System to be Operable, (2) clarifies that LCO 3.2.3, “LINEAR HEAT GENERATION RATE” also has limits for an inoperable Main Turbine Bypass System that are made applicable as specified in the Core Operating Limits Report, and (3) deletes an outdated footnote for LCO 3.2.3. This change simply clarifies the existing allowance to apply the Main Turbine Bypass System inoperable limits to minimum critical power ratio (MCPR) and linear heat generation rate (LHGR) in lieu of the requirement for the Main Turbine Bypass System to be Operable. The change regarding the outdated footnote has no effect on the actual TS requirements. The current safety analysis evaluation is unaffected by these proposed changes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change (1) adds a Note to the Surveillance Requirements (SRs) of the Hatch Nuclear Plant (HNP) Unit 1 and Unit 2 Technical Specifications (TS) 3.7.7 clarifying that the SRs are not required to be met when the LCO does not require the Main Turbine Bypass System to be Operable, (2) clarifies that LCO 3.2.3, “LINEAR HEAT GENERATION RATE” also has limits for an inoperable Main Turbine Bypass System that are made applicable as specified in the Core Operating Limits Report, and (3) deletes an outdated footnote for LCO 3.2.3. This change simply clarifies the existing allowance to apply the Main Turbine Bypass System inoperable limits to minimum critical power ratio (MCPR) and linear heat generation rate (LHGR) in lieu of the requirement for the Main Turbine Bypass System to be Operable. The applicable safety analyses for TS 3.7.7 is unaffected by this clarification. The change regarding the outdated footnote has no effect on the actual TS requirements.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee’s analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Michael T. Markley.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: September 13, 2017. A publicly-available version is in ADAMS under Accession No. ML17256A626.

Description of amendment request: The requested amendment proposes to depart from approved AP1000 Design Control Document (DCD) Tier 2 information as incorporated into the Updated Final Safety Analysis Report (UFSAR) as plant-specific DCD information, and from Technical Specifications as incorporated in Appendix A of the Combined License (COL). Specifically, the proposed changes revise COL Appendix A Technical Specification 3.6.8 to identify the trisodium phosphate (TSP) mass value required in the pH adjustment baskets. The TSP mass value adjusts the pH of the containment water to >7.0 following a postulated accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity revises the mass of trisodium phosphate (TSP), which raises the pH of post-accident containment water to 7.0 or greater following a postulated accident. The change to the TSP mass value does not adversely impact the ability to support radionuclide retention with high radioactivity in containment and helps prevent corrosion of containment equipment during long-term floodup conditions. The proposed changes do not adversely impact previously evaluated accidents, because pH control capability is provided to mitigate already postulated accidents. As described in Updated Final Safety Analysis Report (UFSAR) Subsection 15.6.5.3.1.3, the passive core cooling system (PXS) is assumed to provide sufficient TSP to the post-loss-of-coolant accident (LOCA) cooling solution to maintain the pH at greater than or equal to 7.0 following a LOCA. The pH adjustment baskets provide for long-term pH control. Long-term pH control is not adversely

impacted as the pH adjustment baskets contain the required amount of TSP to support pH control requirements following a design basis accident (DBA).

No safety-related structure, system, component (SSC) or function is adversely affected by this change. The change does not involve an interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the UFSAR are not affected. The proposed changes do not involve a change to the predicted radiological releases due to postulated accident conditions, thus, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed activity revises the mass of TSP, which raises the pH of containment to 7.0 or greater following a postulated accident. The proposed activity does not create the possibility of a new or different kind of accident as pH adjustment is used to support proper containment chemistry requirements following an accident. The proposed activity does not adversely affect any safety related equipment, and does not add any new interfaces to safety-related SSCs that adversely affect safety functions. No system or design function or equipment qualification is adversely affected by these changes as the changes do not modify any SSCs that prevent safety functions from being performed. The capability to maintain a maximum containment pH below 9.5 is not adversely impacted by these changes. The changes do not introduce a new failure mode, malfunction or sequence of events that could adversely affect safety or safety related equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed activity revises the mass of TSP, which raises the pH of containment to 7.0 or greater following a postulated accident. The proposed activity does not affect any other safety-related equipment or fission product barriers. Containment water pH adjustment is not adversely impacted. The requested changes will not adversely affect compliance with any design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes as previously evaluated accidents are not impacted.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and based on this review it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazard consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: September 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17272A957.

Description of amendment request: The requested amendment proposes to depart from Tier 2* and associated Tier 2 information in the Updated Final Safety Analysis Report (UFSAR) (which includes the plant-specific DCD Tier 2 information). The requested amendment proposes to depart from UFSAR Tier 2* information regarding resolution of human engineering deficiencies (HEDs) contained in Westinghouse Electric Company's report APP–OCS–GEH–320, "AP1000 Human Factors Engineering Integrated Systems Validation Plan," which is incorporated by reference into the VEGP Units 3 and 4 UFSAR.

The proposed changes would revise the licensing basis of the combined licenses regarding the process for addressing and re-testing of HEDs identified during the integrated system validation (ISV) as described in Tier 2* document, APPOCS–GEH–320 "AP1000 Human Factors Engineering Integrated System Validation Plan." APPOCS–GEH–320 references APP–OCS–GEH–420, "Human Factors Engineering Discrepancy Resolution Process," which defines the process for tracking, resolution, and closure of HEDs. The proposed changes to APP–OCS–GEH–320 do not impact APP–OCS–GEH–420.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Integrated System Validation (ISV) provides a comprehensive human performance-based assessment of the design of the AP1000 Human-System Interface (HSI) resources, based on their realistic operation

within a simulator driven Main Control Room (MCR). The ISV is part of the overall AP1000 Human Factors Engineering (HFE) program. The changes to APP-OCS-GEH-320, which is incorporated by reference into the UFSAR, clarify the resources and methodology used during re-testing performed to verify the effectiveness of Human Engineering Deficiency (HED) resolution. The ISV Plan does not affect the plant itself. Changing APP-OCS-GEH-320 and the UFSAR does not affect prevention and mitigation of abnormal events, e.g., accidents, anticipated operational occurrences, earthquakes, floods and turbine missiles, or their safety or design analyses. No safety-related structure, system, component (SSC) or function is adversely affected. The changes neither involve nor interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the UFSAR are not affected. Because the changes do not involve any safety-related SSC or function used to mitigate an accident, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The changes to APP-OCS-GEH-320 and the VEGP 3 and 4 UFSAR affect only the testing and validation of the MCR design and HSI using a plant simulator. Therefore, the changes do not affect the safety-related equipment itself, nor do they affect equipment which, if it failed, could initiate an accident or a failure of a fission product barrier. No analysis is adversely affected. No system or design function or equipment qualification is adversely affected by the changes. This activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in significant fuel cladding failures. In addition, the changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety related equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The changes to APP-OCS-GEH-320 and the UFSAR affect the testing and validation of the MCR design and HSI using a plant simulator. Therefore, the changes do not affect the assessments or the plant itself. These changes do not affect safety-related equipment or equipment whose failure could initiate an accident, nor does it adversely interface with safety-related equipment or fission product barriers. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested change.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and based on this review it appears that the three standards of 10 CFR 50.92 (c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazard consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203-2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Susquehanna Nuclear, LLC, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: September 20, 2017. A publicly-available version is in ADAMS under Package Accession No. ML17265A434.

Description of amendment request: The amendments would revise technical specification (TS) requirements related to "operations with a potential for draining the reactor vessel" (OPDRVs) with new requirements on reactor pressure vessel (RPV) water inventory control (WIC) to protect Safety Limit 2.1.1.3. Safety Limit 2.1.1.3 requires RPV water level to be greater than the top of active irradiated fuel. The proposed changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF-542, Revision 2, "Reactor Pressure Vessel Water Inventory Control," dated December 20, 2016.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. Draining of RPV water inventory in Mode 4 (i.e., cold shutdown) and Mode 5 (i.e., refueling) is not an accident previously evaluated and, therefore, replacing the existing TS controls to prevent or mitigate such an event with a new set of controls has no effect on any accident previously evaluated. RPV water inventory control in Mode 4 or Mode 5 is not an initiator of any accident previously evaluated. The existing OPDRV controls or the proposed RPV WIC controls are not

mitigating actions assumed in any accident previously evaluated.

The proposed changes reduce the probability of an unexpected draining event (which is not a previously evaluated accident) by imposing new requirements on the limiting time in which an unexpected draining event could result in the reactor vessel water level dropping to the top of the active fuel (TAF). These controls require cognizance of the plant configuration and control of configurations with unacceptably short drain times. These requirements reduce the probability of an unexpected draining event. The current TS requirements are only mitigating actions and impose no requirements that reduce the probability of an unexpected draining event.

The proposed changes reduce the consequences of an unexpected draining event (which is not a previously evaluated accident) by requiring an Emergency Core Cooling System (ECCS) subsystem to be operable at all times in Modes 4 and 5. The current TS requirements do not require any water injection systems, ECCS or otherwise, to be Operable in certain conditions in Mode 5. The change in requirement from two ECCS subsystems to one ECCS subsystem in Modes 4 and 5 does not significantly affect the consequences of an unexpected draining event because the proposed Actions ensure equipment is available within the limiting drain time that is as capable of mitigating the event as the current requirements. The proposed controls provide escalating compensatory measures to be established as calculated drain times decrease, such as verification of a second method of water injection and additional confirmations that containment and/or filtration would be available if needed.

The proposed changes reduce or eliminate some requirements that were determined to be unnecessary to manage the consequences of an unexpected draining event, such as automatic initiation of an ECCS subsystem and the Control Room Emergency Outside Air Supply (CREOAS) system. These changes do not affect the consequences of any accident previously evaluated since a draining event in Modes 4 and 5 is not a previously evaluated accident and the requirements are not needed to adequately respond to a draining event.

The administrative update to delete expired completion time notes is purely administrative in nature.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.3. The proposed changes will not alter the design function of the equipment involved. Under the proposed changes, some systems that are currently required to be operable during OPDRVs would be required to be available within the

limiting drain time or to be in service depending on the limiting drain time. Should those systems be unable to be placed into service, the consequences are no different than if those systems were unable to perform their function under the current TS requirements. The event of concern under the current requirements and the proposed changes are an unexpected draining event. The proposed changes do not create new failure mechanisms, malfunctions, or accident initiators that would cause a draining event or a new or different kind of accident not previously evaluated or included in the design and licensing bases.

The administrative update to delete expired completion time notes is purely administrative in nature.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes replace existing TS requirements related to OPDRVs with new requirements on RPV WIC. The current requirements do not have a stated safety basis and no margin of safety is established in the licensing basis. The safety basis for the new requirements is to protect Safety Limit 2.1.1.3. New requirements are added to determine the limiting time in which the RPV water inventory could drain to the top of the fuel in the reactor vessel should an unexpected draining event occur. Plant configurations that could result in lowering the RPV water level to the TAF within one hour are now prohibited. New escalating compensatory measures based on the limiting drain time replace the current controls. The proposed TS establish a safety margin by providing defense-in-depth to ensure that the Safety Limit is protected and to protect the public health and safety. While some less restrictive requirements are proposed for plant configurations with long calculated drain times, the overall effect of the change is to improve plant safety and to add safety margin.

The administrative update to delete expired completion time notes is purely administrative in nature.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Damon D. Obie, Associate General Counsel, Talen Energy Supply, LLC, 835 Hamilton St., Suite 150, Allentown, PA 18101.

NRC Branch Chief: James G. Danna.

Tennessee Valley Authority (TVA), Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: August 15, 2017. A publicly-available version is in ADAMS under Accession No. ML17228A490.

Description of amendment request: The amendments would revise the BFN, Units 1, 2, and 3 Technical Specification (TS) 5.5.12, "Primary Containment Leakage Rate Testing Program," by adopting Nuclear Energy Institute (NEI) 94–01, Revision 3–A, "Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J," as the implementation document for the performance-based Option B of 10 CFR part 50, Appendix J. The proposed changes permanently extend the Type A containment integrated leak rate testing (ILRT) interval from 10 years to 15 years and the Type C local leakage rate testing (LLRT) intervals from 60 months to 75 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The proposed revision to TS 5.5.12 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR part 50, Appendix J, Option B, ILRT) and a 75-month interval for Type C testing (10 CFR part 50, Appendix J, Option B, LLRT). The current Type A test interval of 10 years would be extended to 15 years from the last Type A test. The proposed extension to Type A testing does not involve a significant increase in the consequences of an accident because research documented in NUREG–1493, "Performance-Based Containment System Leakage Testing Requirements" ["Performance-Based Containment Leak-Test Program"], September 1995, has found that, generically, very few potential containment leakage paths are not identified by Type B and C tests. NUREG–1493 concluded that reducing the Type A testing frequency to one per 20 years was found to lead to an imperceptible increase in risk. A high degree of assurance is provided through testing and inspection that the containment will not degrade in a manner detectable only by Type A testing. The last Type A test (performed November 19, 2010 for BFN, Unit 1, June 3, 2009 for BFN, Unit 2 and May 12, 2012 for BFN, Unit 3) shows leakage to be below acceptance criteria, indicating a very leak tight containment. Inspections required by

the ASME Code [American Society of Mechanical Engineers Boiler and Press Vessel Code] Section XI (Subsection IWE) and Maintenance Rule monitoring (10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants") are performed in order to identify indications of containment degradation that could affect that leak tightness. Types B and C testing required by TSs will identify any containment opening such as valves that would otherwise be detected by the Type A tests. These factors show that a Type A test interval extension will not represent a significant increase in the consequences of an accident.

The proposed amendment involves changes to the BFN, Units 1, 2, and 3, 10 CFR 50 Appendix J Testing Program Plan. The proposed amendment does not involve a physical change to the plant or a change in the manner in which the units are operated or controlled. The primary containment function is to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment itself and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve any accident precursors or initiators. Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for development of the BFN, Units 1, 2, and 3, performance-based leakage testing program. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components will limit leakage rates to less than the values assumed in the plant safety analyses. The potential consequences of extending the ILRT interval from 10 years to 15 years have been evaluated by analyzing the resulting changes in risk. The increase in risk in terms of person-rem [roentgen equivalent man] per year resulting from design basis accidents was estimated to be very small, and the increase in the LERF [large early release frequency] resulting from the proposed change was determined to be within the guidelines published in NRC RG [Regulatory Guide] 1.174. Additionally, the proposed change maintains defense-in-depth by preserving a reasonable balance among prevention of core damage, prevention of containment failure, and consequence mitigation. TVA has determined that the increase in CCFP [conditional containment failure probability] due to the proposed change would be very small.

Based on the above discussions, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed revision to TS 5.5.12 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR part 50, Appendix J, Option B, ILRT) and a 75-month interval for Type C testing (10 CFR part 50, Appendix J, Option B, LLRT). The current test interval of 10 years, based on past performance, would be extended to 15 years from the last Type A test (performed November 19, 2010 for BFN, Unit 1, June 3, 2009 for BFN, Unit 2 and May 12, 2012 for BFN, Unit 3). The proposed extension to Type A and Type C test intervals does not create the possibility of a new or different type of accident because there are no physical changes being made to the plant and there are no changes to the operation of the plant that could introduce a new failure mode creating an accident or affecting the mitigation of an accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed revision to TS 5.5.12 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR part 50, Appendix J, Option B, ILRT) and a 75-month interval for Type C testing (10 CFR part 50, Appendix J, Option B, LLRT). The current test interval of 10 years, based on past performance, would be extended to 15 years from the last Type A test (performed November 19, 2010 for BFN, Unit 1, June 3, 2009 for BFN, Unit 2 and May 12, 2012 for BFN, Unit 3). The proposed extension to Type A testing will not significantly reduce the margin of safety. NUREG-1493, "Performance-Based Containment System Leakage Testing Requirements" ["Performance-Based Containment Leak-Test Program"], September 1995, generic study of the effects of extending containment leakage testing, found that a 20 year extension to Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG-1493 found that, generically, the design containment leakage rate contributes about 0.1% to the individual risk and that the decrease in Type A testing frequency would have a minimal effect on this risk since 95% of the potential leakage paths are detected by Type C testing. Regular inspections required by the ASME Code Section XI (Subsection IWE) and maintenance rule monitoring (10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants") will further reduce the risk of a containment leakage path going undetected.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94-01, Revision 3-A, for development of the BFN, Units 1, 2, and 3, performance-based leakage testing program, and establishes a 15-year interval for the performance of the primary containment ILRT and a 75-month interval for Type C testing. The amendment does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the 10 CFR part 50, Appendix J Testing Program Plan, as defined in the TS, ensure that the

degree of primary containment structural integrity and leak-tightness that is considered in the plant safety analyses is maintained. The overall containment leakage rate limit specified by the TS is maintained, and the Type A, B, and C containment leakage tests will continue to be performed at the frequencies established in accordance with the NRC-accepted guidelines of NEI 94-01, Revision 3-A.

Containment inspections performed in accordance with other plant programs serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by an ILRT. This ensures that evidence of containment structural degradation is identified in a timely manner. Furthermore, a risk assessment using the current BFN, Units 1, 2, and 3, PRA [probabilistic risk assessment] model concluded that extending the ILRT test interval from 10 years to 15 years results in a very small change to the BFN, Units 1, 2, and 3, risk profile.

Accordingly, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., WT 6A, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2 (SQN), Hamilton County, Tennessee

Tennessee Valley Authority, Docket Nos. 50-390 and 50-391, Watts Bar Nuclear Plant, Units 1 and 2 (WBN), Rhea County, Tennessee

Date of amendment request: August 7, 2017. A publicly-available version is in ADAMS under Accession No. ML17219A505.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.2.4, "Quadrant Power Tilt Ratio (QPTR)," and TS 3.3.1, "Reactor Trip System (RTS) Instrumentation," to avoid confusion as to when an incore power distribution measurement for QPTR is required. The amendment would also revise the WBN TSs for consistency with the existing SQN TSs and Westinghouse Standard TSs in NUREG-1431, Revision 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed changes do not significantly increase the probability of an accident and are consistent with safety analysis assumptions and resultant consequences.

Therefore, the changes do not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not result in a change in the manner in which the reactor trip system (RTS) and engineered safety feature actuation system (ESFAS) provide plant protection. The RTS and ESFAS will continue to have the same setpoints after the proposed changes are implemented. There are no design changes associated with the change. The changes do not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. Redundant RTS and ESFAS trains are maintained, and diversity with regard to the signals that provide reactor trip and engineered safety features actuation is also

maintained. All signals credited as providing primary or secondary protection, and all operator actions credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental

Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment requests: December 15, 2016.

Brief description of amendments: The amendments modified Technical Specification (TS) 3.4.10, "Pressurizer Safety Valves," TS 3.7.4, "Steam Generator Power Operated Relief Valves (SG PORVs)," and TS 3.7.6, "Condensate Storage System," to revise the Completion Times for Limiting Condition for Operation (LCO) of TS LCO 3.4.10 Required Action B.2, TS LCO 3.7.4 Required Action C.2, and TS LCO 3.7.6 Required Action B.2 from 12 to 24 hours. The proposed changes are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-352-A, Revision 1, "Provide Consistent Completion Time to Reach MODE 4."

Date of issuance: October 23, 2017.

Effective date: These license amendments are effective as of its date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 294 (Unit 1) and 290 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17254A144; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the renewed licenses and technical specifications.

Date of initial notice in Federal Register: April 25, 2017 (82 FR 19099).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 23, 2017.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment requests: December 15, 2016.

Brief description of amendments: The amendments modified technical specification (TS) limiting condition for operation (LCO) 3.7.5, "Auxiliary Feedwater (AFW) System," Condition A and Required Action A.1. Condition A was revised to include the situation when one turbine-driven AFW pump is inoperable in MODE 3, immediately

following a refueling outage, only applicable if MODE 2 has not been entered following the refueling outage. Required Action A.1 was revised to include the turbine-driven AFW addition to Condition A. The amendments are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-340-A, Revision 3, "Allow 7 day Completion Time for a turbine-driven AFW pump inoperable."

Date of issuance: October 23, 2017.

Effective date: These license amendments are effective as of its date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 295 (Unit 1) and 291 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17257A297; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the renewed licenses and TSs.

Date of initial notice in Federal Register: April 25, 2017 (82 FR 19100).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 23, 2017.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment requests: December 15, 2016.

Brief description of amendments: The amendments revised Technical Specification 3.1.2, "Core Reactivity," to revise the Completion Times of Required Actions A.1 and A.2 from 72 hours to 7 days. This proposed change is consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-142-A, Revision 0, "Increase the Completion Time when the Core Reactivity Balance is Not Within Limit."

Date of issuance: October 23, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 296 (Unit 1) and 292 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17261B290; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Renewed Licenses and Technical Specifications.

Date of initial notice in Federal Register: April 11, 2017 (82 FR 17457).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 2017.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment requests: January 11, 2017.

Brief description of amendments: The amendments modified Technical Specification (TS) 3.8.1, "AC Sources—Operating," to allow greater flexibility in performing Surveillance Requirements (SRs) by modifying Mode restriction notes in TS SRs 3.8.1.8, 3.8.1.11, 3.8.1.16, 3.8.1.17, and 3.8.1.19. This proposed change was consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-283-A, Revision 3, "Modify Section 3.8 Mode Restriction Notes."

Date of issuance: October 25, 2017.

Effective date: These license amendments are effective as of its date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 300 (Unit 1) and 279 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17269A055; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the renewed facility operating licenses and technical specifications.

Date of initial notice in Federal Register: May 23, 2017 (82 FR 23620).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 25, 2017.

No significant hazards consideration comments received: Yes. One comment from a member of the public was received, however it was not related to the no significant hazards consideration determination nor the license amendment request.

Duke Energy Carolinas, LLC, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment requests: January 11, 2017.

Brief description of amendments: The amendments modified Technical Specification (TS) 3.1.8, "PHYSICS TESTS Exceptions," to allow the numbers of channels required by the

Limiting Condition for Operation (LCO) section of TS 3.3.1, "Reactor Trip System (RTS) Instrumentation," to be reduced from "4" to "3" to allow one nuclear instrumentation channel to be used as an input to the reactivity computer for physics testing without placing the nuclear instrumentation channel in a tripped condition. This proposed change is consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-315-A, Revision 0, "Reduce plant trips due to spurious signals to the NIS [Nuclear Instrumentation System] during physics testing."

Date of issuance: October 25, 2017.

Effective date: These license amendments are effective as of their date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 301 (Unit 1) and 280 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17261B218; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the renewed facility operating licenses and technical specifications.

Date of initial notice in Federal Register: May 23, 2017 (82 FR 23621).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 25, 2017.

No significant hazards consideration comments received: Yes. One comment from a member of the public was received, however it was not related to the proposed no significant hazards consideration determination or to the license amendment request.

Duke Energy Carolinas, LLC, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment requests: January 11, 2017.

Brief description of amendments: The amendments modify the limiting condition for operation (LCO) Required Action B.2 for Technical Specification (TS) 3.4.10, "Pressurizer Safety Valves," LCO Required Action C.2 for TS 3.7.4, "Steam Generator Power Operated Relief Valves (SG PORVs)," and LCO Required Action G.1 for TS 3.4.12, "Low Temperature Overpressure Protection (LTOP) System." Specifically, the Completion Times are revised from 12 hours to 24 hours for TS LCO 3.4.10, Required Action B.2, and TS LCO 3.7.4, Required Action C.2; and from 8 hours to 12 hours for TS LCO 3.4.12, Required

Action G.1. The changes are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-352-A, Revision 1, "Provide Consistent Completion Time to Reach MODE 4."

Date of issuance: October 31, 2017.

Effective date: These license amendments are effective as of their date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 302 (Unit 1) and 281 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17269A198; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Renewed Licenses and Technical Specifications.

Date of initial notice in Federal Register: May 23, 2017 (82 FR 23622).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2017.

No significant hazards consideration comments received: Yes. One comment from a member of the public was received, however it was not related to the proposed no significant hazards consideration determination or to the license amendment request.

Duke Energy Carolinas, LLC, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment requests: January 11, 2017.

Brief description of amendments: The amendments modify Technical Specification (TS) 3.7.5, "Auxiliary Feedwater (AFW) System," Limiting Condition for Operation (LCO) Condition A and Required Action A.1. The proposed changes modify Condition A to expand the condition to include when one turbine driven AFW pump is inoperable in MODE 3. This expanded condition is applicable immediately following a refueling outage and only if MODE 2 has not been entered. Required Action A.1 is revised to state "affected equipment" as opposed to "steam supply" as a result of the addition of the turbine driven AFW pump to Condition A. The changes are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF-340-A, Revision 3, "Allow 7 day Completion Time for a turbine-driven AFW pump inoperable."

Date of issuance: October 31, 2017.

Effective date: These license amendments are effective as of their date of issuance and shall be

implemented within 120 days of issuance.

Amendment Nos.: 304 (Unit 1) and 283 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17277A313; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the renewed facility operating licenses and technical specifications.

Date of initial notice in Federal Register: May 23, 2017 (82 FR 23621).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2017.

No significant hazards consideration comments received: Yes. One comment from a member of the public was received, however it was not related to the proposed no significant hazards consideration determination or to the license amendment request.

Duke Energy Carolinas, LLC, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 11, 2017.

Brief description of amendments: The amendments modify Technical Specification (TS) Limiting Condition for Operation (LCO) 3.9.6, "Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level," to add a note which allows all RHR pumps to be secured for less than or equal to 15 minutes to support the switching of the shutdown cooling loops from one train to another. The changes are consistent with Technical Specifications Task Force (TSTF) Travelers TSTF-349-A, Revision 1, "Add Note to LCO 3.9.5 Allowing Shutdown Cooling Loops Removal from Operation," TSTF-361-A, Revision 2, "Allow standby [Shutdown Cooling] SDC/RHR/[Decay Heat Removal] DHR loop to [be] inoperable to support testing," and TSTF-438-A, Revision 0, "Clarify Exception Notes to be Consistent with the Requirement Being Excepted."

Date of issuance: October 31, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: Unit 1—303; Unit 2—282. A publicly-available version is in ADAMS under Accession No. ML17271A034; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-9 and NPF-17: Amendments

revised the Renewed Licenses and Technical Specifications.

Date of initial notice in Federal Register: May 23, 2017 (82 FR 23623).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2017.

No significant hazards consideration comments received: Yes. One comment from a member of the public was received, however it was not related to the proposed no significant hazards consideration determination or the license amendment request.

Duke Energy Progress, LLC, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 2, 2016, as supplemented by letters dated April 25, May 22, and October 2, 2017.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) to (1) relocate cycle-specific parameters to the Core Operating Limits Report (COLR) consistent with Technical Specification Task Force (TSTF)-339, "Relocate TS Parameters to COLR;" (2) delete duplicate reporting requirements in the Administrative Section of TSs consistent with TSTF-5, "Delete Safety Limit Violation Notification Requirements," Revision 1; and (3) delete reference to plant procedure PLP-6, "Technical Specification Equipment List Program and Core Operating Limits Report," in TSs as it pertains to the COLR.

Date of issuance: November 6, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 161. A publicly-available version is in ADAMS under Accession No. ML17250A202; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF-63: Amendment revised the Facility Operating License and TSs.

Date of initial notice in Federal Register: February 14, 2017 (82 FR 10595). The supplemental letters dated April 25, May 22, and October 2, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated November 6, 2017.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50-397, Columbia Generating Station, Benton County, Washington

Date of amendment request: November 8, 2016, as supplemented by letter dated July 11, 2017.

Brief description of amendment: The amendment would, on a one-time basis, extend the completion time from 7 days to 14 days for the Residual Heat Removal Train A subsystem to operable status associated with Technical Specification (TS) 3.5.1, "ECCS [Emergency Core Cooling System]—Operating"; TS 3.6.1.5, "Residual Heat Removal (RHR) Drywell Spray"; and TS 3.6.2.3, "Residual Heat Removal (RHR) Suppression Pool Cooling." This amendment will be used to support preventive maintenance, which replaces the RHR Train A subsystem's pump and motor.

Date of issuance: October 30, 2017.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 245. A publicly-available version is in ADAMS under Accession No. ML17290A127; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF-21: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: February 14, 2017 (82 FR 10596). The supplemental letter dated July 11, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 2017.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit 2, York and Lancaster Counties, Pennsylvania

Date of amendment request: May 19, 2017, as supplemented by letter dated August 29, 2017.

Brief description of amendment: The amendment revised the Technical Specifications to decrease the number of safety relief valves and safety valves required to be operable when operating at a power level less than or equal to 3,358 megawatts thermal. This change is applicable only to the current Cycle 22 that is scheduled to end in October 2018.

Date of issuance: October 25, 2017.

Effective date: As of the date of issuance and shall be implemented within 5 days.

Amendment No.: 315. A publicly-available version is in ADAMS under Accession No. ML17249A151; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR-44: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: July 5, 2017 (82 FR 31094). The supplemental letter dated August 29, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 2017.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50-373 and 50-374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: October 27, 2016, as supplemented by the letters dated July 28, 2017, August 30, 2017, and October 19, 2017.

Brief description of amendments: The amendments revised the suppression pool swell design analysis. The new analysis utilizes a different computer code and incorporates different analysis assumptions than the current analysis. The changes are necessary because the current design analysis determining the suppression pool swell response to a loss-of-coolant accident was determined to be non-conservative.

These changes to the suppression pool swell design analysis do not require any changes to the LSCS Technical Specifications. Changes to the LSCS updated final safety analysis report related to changes to the suppression pool swell design analysis shall be made in accordance with 10

CFR 50.71(e) based on the NRC approval of these changes.

Date of issuance: October 30, 2017.

Effective date: These license amendments are effective as of the date of its issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 225 for NPF-11 and 211 for NPF-18. A publicly-available version is in ADAMS under Accession No. ML17257A304; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License Nos. NPF-11 and NPF-18: The amendments approved to revise the LSCS updated final safety analysis report related to changes to the suppression pool swell design analysis and the Licenses.

Date of initial notice in Federal Register: March 8, 2017 (82 FR 13022). The supplements dated July 28, 2017, August 30, 2017, and October 19, 2017, contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 30, 2017.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50-410, Nine Mile Point Nuclear Station (Nine Mile Point), Unit 2, Oswego County, New York

Date of amendment request: December 13, 2016, as supplemented by letter dated February 17, 2017.

Brief description of amendment: The amendment revised the Nine Mile Point, Unit 2, Technical Specification (TS) safety limit (SL) to increase the low pressure isolation setpoint allowable value, which will result in earlier main steam line isolation. The revised main steam line low pressure isolation capability and the revised SL are intended to ensure that Nine Mile Point, Unit 2, remains within the TS SLs in the event of a pressure regulator failure maximum demand transient.

Date of issuance: October 31, 2017.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment No.: 164. A publicly-available version is in ADAMS under Accession No. ML17268A263; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF-69: Amendment revised the

Renewed Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: March 28, 2017 (82 FR 15381). The supplemental letter dated February 17, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2017.

No significant hazards consideration comments received: No.

Florida Power & Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: January 23, 2017, as supplemented by letter dated July 3, 2017.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) by limiting the MODE of applicability for the Reactor Protection System, Startup, and Operating Rate of Change of Power—High, functional unit trip. Additionally, the amendments added new Limiting Condition for Operation (LCO) 3.0.5 and relatedly modified LCO 3.0.1 and LCO 3.0.2, to provide for placing inoperable equipment under administrative control for the purpose of conducting testing required to demonstrate OPERABILITY.

Date of issuance: November 2, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 243 and 194. A publicly-available version is in ADAMS under Accession No. ML17257A015; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in Federal Register: March 28, 2017 (82 FR 15383). The supplemental letter dated July 3, 2017, provided additional information that expanded the scope of the application as originally noticed and changed the NRC staff's original proposed no significant hazards consideration (NSHC) determination as published in the **Federal Register**. Accordingly, the NRC published a second proposed no significant hazards consideration determination in the **Federal Register** on September 12, 2017

(82 FR 42849). This notice superseded the original notice in its entirety. It also provided an opportunity to request a hearing by November 13, 2017, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments and final NSHC are contained in a Safety Evaluation dated November 2, 2017.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: December 21, 2016.

Brief description of amendments: The amendments modify the Technical Specifications by deleting high-range noble gas effluent monitors' requirements and relocating the requirements to the Turkey Point Offsite Dose Calculation Manual.

Date of issuance: October 26, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos: 277 and 272. A publicly-available version is in ADAMS under Accession No. ML17228A563. Documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR-31 and DPR-41: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in Federal Register: March 14, 2017 (82 FR 13666).

The Commission's related evaluation of the amendments is contained in a safety evaluation dated October 26, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: August 11, 2017.

Brief description of amendments: The amendments request an extension to the time to achieve full compliance with 10 CFR 50.48(c), National Fire Protection Association (NFPA) 805, from November 6, 2017, to the conclusion of the FNP, Unit 1, Spring 2018 Refueling Outage (1R28). The amendments update Attachment S, "Modification and Implementation Items"; of the previously approved NFPA-805 amendment.

Date of issuance: November 1, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 215 (Unit 1) and 212 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17269A166; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF-2 and NPF-8: The amendments revised the Renewed Facility Operating Licenses.

Date of initial notice in Federal Register: August 29, 2017 (82 FR 41059).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 1, 2017.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 14th day of November 2017.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017-25063 Filed 11-20-17; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Reinstatement of a Previously Approved Information Collection With Revision, U.S. Office of Personnel Management (OPM) Standard Form (SF) 15, Application for 10-Point Veteran Preference, OMB No. 3206-0001

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: This notice announces the Office of Personnel Management's (OPM) plan to submit to the Office of Management and Budget (OMB) a request for reinstatement of a revised information collection for the Standard Form (SF) 15, Application for 10-Point Veteran Preference. The SF-15 is used by agencies, OPM examining offices, and agency appointing officials to adjudicate individuals' claims for veterans' preference in accordance with the Veterans' Preference Act of 1944. OPM's revisions are necessary to update language as a result of the enactment of the Gold Star Fathers Act of 2015, derived veterans' preference for parents,

and to make additional corrections to the form.

DATES: Comments are encouraged and will be accepted until January 22, 2018.

ADDRESSES: You may send or deliver comments to Kimberly A. Holden, Deputy Associate Director for Talent Acquisition and Workforce Shaping, Employee Services, U.S. Office of Personnel Management, Room 6351D, 1900 E Street NW., Washington, DC 20415-9700; email at employ@opm.gov; or fax at (202) 606-2329; and to *OMB Designee*, OPM Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Roseanna Ciarlante by telephone at (267) 932-8640; by fax at (202) 606-4430; by TTY at (202) 418-3134; or by email at Roseanna.Ciarlante@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

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

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

The SF 15, Application for 10-Point Veteran Preference, is used by veterans as both a request for preference and a guide to determine the appropriate documentation to submit to support their claims of 10-point veterans' preference when applying for Federal employment. The SF 15, and the accompanying documentation, is used by agencies, OPM examining offices, and agency appointing officials to adjudicate individuals' claims for veterans' preference in accordance with the Veterans' Preference Act of 1944. The proposed revisions to the SF 15 are necessary to update language as a result of the enactment of the Gold Star Fathers Act of 2015 (Pub. L. 114-62),

derived veterans' preference for parents, and to make additional corrections on the form, as follows:

- Page 1, Item 9 is revised to reflect derived veterans' preference for parents.
- Page 2, Item A, 4th bullet is corrected to read that certification is of an expected discharge or release from active duty service in the armed forces under honorable conditions not later than 120 days after the date the certification is submitted.
- Page 2, Items C and F are corrected to reflect derived veterans' preference for parents.
- Several punctuation errors are corrected.

The SF 15 will continue to be available as a PDF fillable form for applicant use. The only acceptable version of this form will be as stated above, but consistent with current practice, the form may be submitted electronically or in hard copy. The SF 15 will be obtainable on the OPM Web site at <https://www.opm.gov/forms/standard-forms/>.

Analysis

- *Agency:* Recruitment and Hiring, Employee Services, Office of Personnel Management.
- *Title:* Application for 10-Point Veteran Preference.
- *OMB Number:* 3260-0001.
- *Frequency:* Annually.
- *Affected Public:* Disabled Veterans.
- *Number of Respondents:* 18,418.
- *Estimated Time per Respondent:* 33.5 minutes.
- *Total Burden Hours:* 6,139 hours.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017-25034 Filed 11-20-17; 8:45 am]

BILLING CODE 6325-39-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Establishment Information Form, DD 1918, Wage Data Collection Form, DD 1919, Wage Data Collection Continuation Form, DD 1919C, 3206-0036

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206-0036, Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data

Collection Continuation Form (DD 1919C). As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until January 22, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Employee Services, Pay and Leave, 1900 E Street NW., Room 7H31, Washington, DC 20415-8200, Attention: Brenda L. Roberts, Deputy Associate Director for Pay and Leave, or sent via electronic mail to pay-leave-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, Employee Services, Pay and Leave, 1900 E Street NW., Room 7H31, Washington, DC 20415-8200, Attention: Brenda L. Roberts, Deputy Associate Director for Pay and Leave, by telephone at (202) 606-2507, or sent via electronic mail to pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: The U.S. Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
 2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 3. Enhance the quality, utility, and clarity of the information to be collected; and
 4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.
- The Federal Wage System (FWS) is the pay system established under 5 U.S.C. 5341 *et seq.* for prevailing rate employees who work in trade, craft, and laboring occupations. The FWS establishes rates of pay for Federal prevailing rate employees through local wage surveys of private sector employers. The FWS includes 130 appropriated fund and 118 nonappropriated fund local wage areas.

The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM based on recommendations of the Federal Prevailing Rate Advisory Committee for use by the U.S. Department of Defense to establish prevailing wage rates for FWS employees Governmentwide.

Analysis

Agency: Employee Services, Pay and Leave Policy, U.S. Office of Personnel Management.

Title: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C).

OMB Number: 3260-0036.

Frequency: Annually.

Affected Public: Private Sector Establishments.

Number of Respondents: 21,760.

Estimated Time per Respondent: 1.5 hours.

Total Burden Hours: 32,640.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017-25032 Filed 11-20-17; 8:45 am]

BILLING CODE 6325-39-P

OFFICE OF PERSONNEL MANAGEMENT

Information Collection: Standard Form 2800—Application for Death Benefits Under the Civil Service Retirement System (CSRS); Standard Form 2800A—Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death (CSRS)

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revision of a currently approved information collection, Standard Form 2800—Application for Death Benefits (CSRS) and Standard Form 2800A—Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death (CSRS).

DATES: Comments are encouraged and will be accepted until January 22, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, Office of Personnel

Management, 1900 E Street NW., Washington, DC 20415, Attention: Alberta Butler, Room 2347-E, or sent via electronic mail to Alberta.Butler@opm.gov.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection instrument with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316-L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to Cyrus.Benson@opm.gov, via telephone to (202) 606-4808, or faxed to (202) 606-0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35) OPM is soliciting comments for this collection (OMB No. 3206-0156). We are particularly interested in comments that:

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

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Standard Form 2800 is needed to collect information so that OPM can pay death benefits to the survivors of Federal employees and annuitants. Standard Form 2800A is needed for deaths in service so that survivors can make the needed elections regarding military service.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Death Benefits under the Civil Service Retirement System (SF 2800); and Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death (SF 2800A).

OMB Number: 3206-0156.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: SF 2800 = 40,000; SF 2800A = 400.

Estimated Time per Respondent: SF 2800 = 45 minutes; SF 2800A = 45 minutes.

Total Burden Hours: 30,300 (SF 2800 = 30,000 hours; SF 2800A = 300 hours).

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017-25033 Filed 11-20-17; 8:45 am]

BILLING CODE 6325-38-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2014-31; CP2016-3; CP2018-48; CP2018-49; CP2018-50; MC2018-25 and CP2018-51; MC2018-26 and CP2018-52; MC2018-27 and CP2018-53; MC2018-28 and CP2018-54]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 27, 2017 (Comment due date applies to CP2014-31; CP2016-3; CP2018-48; CP2018-49; CP2018-50); November 28, 2017 (Comment due date applies to MC2018-25 and CP2018-51; MC2018-26 and CP2018-52; MC2018-27 and CP2018-53; MC2018-28 and CP2018-54).

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
- 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):* CP2014-31; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 77; *Filing Acceptance Date:* November 15, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 27, 2017.

2. *Docket No(s):* CP2016-3; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 146; *Filing Acceptance Date:* November 15, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 27, 2017.

3. *Docket No(s):* CP2018-48; *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*: November 15, 2017; *Filing Authority*: 39 CFR 3015.5; *Public Representative*: Curtis E. Kidd; *Comments Due*: November 27, 2017.

4. *Docket No(s)*.: CP2018–49; *Filing Title*: Notice of United States Postal Service of Filing a Functionally Equivalent Priority Mail International Regional Rate Boxes 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date*: November 15, 2017; *Filing Authority*: 39 CFR 3015.5; *Public Representative*: Curtis E. Kidd; *Comments Due*: November 27, 2017.

5. *Docket No(s)*.: CP2018–50; *Filing Title*: Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date*: November 15, 2017; *Filing Authority*: 39 CFR 3015.5; *Public Representative*: Curtis E. Kidd; *Comments Due*: November 27, 2017.

6. *Docket No(s)*.: MC2018–25 and CP2018–51; *Filing Title*: USPS Request to Add Priority Mail Express Contract 53 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: November 15, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Timothy J. Schwuchow; *Comments Due*: November 28, 2017.

7. *Docket No(s)*.: MC2018–26 and CP2018–52; *Filing Title*: USPS Request to Add Priority Mail Contract 375 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: November 15, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Timothy J. Schwuchow; *Comments Due*: November 28, 2017.

8. *Docket No(s)*.: MC2018–27 and CP2018–53; *Filing Title*: USPS Request to Add Priority Mail Contract 376 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: November 15, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Kenneth R. Moeller; *Comments Due*: November 28, 2017.

9. *Docket No(s)*.: MC2018–28 and CP2018–54; *Filing Title*: USPS Request to Add Priority Mail & First-Class Package Service Contract 62 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: November 15, 2017;

Filing Authority: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Kenneth R. Moeller; *Comments Due*: November 28, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2017–25166 Filed 11–20–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 62 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2018–28, CP2018–54.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–25132 Filed 11–20–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1)*: [November 21, 2017.]

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 376 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2018–27, CP2018–53.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–25131 Filed 11–20–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 53 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2018–25, CP2018–51.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–25129 Filed 11–20–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 375 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2018–26, CP2018–52.

Elizabeth A. Reed,
Attorney, Corporate and Postal Business Law.
 [FR Doc. 2017–25130 Filed 11–20–17; 8:45 am]
BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. *Title and purpose of information collection:* Application for Employee Annuity Under the Railroad Retirement Act; OMB 3220–0002.

Section 2(a) of the Railroad Retirement Act (RRA) provides for payments of age and service, disability, and supplemental annuities to qualified employees. An annuity cannot be paid

until the employee stops working for a railroad employer. In addition, the age and service employee must relinquish any rights held to such jobs. A disabled employee does not need to relinquish employee rights until attaining Full Retirement Age, or if earlier, when their spouse is awarded a spouse annuity. Benefits become payable after the employee meets certain other requirements, which depend on the type of annuity payable. The requirements for obtaining the annuities are prescribed in 20 CFR 216 and 220.

To collect the information needed to help determine an applicant's entitlement to, and the amount of, an employee retirement annuity the RRB uses Forms AA–1, *Application for Employee Annuity*; AA–1d, *Application for Determination of Employee Disability*; G–204, *Verification of Workers Compensation/Public Disability Benefit Information*, and electronic Forms AA–1cert, *Application Summary and Certification*, and AA–1sum, *Application Summary*.

The AA–1 application process obtains information from an applicant about their marital history, work history, military service, benefits from other governmental agencies, railroad pensions and Medicare entitlement for either an age and service or disability annuity. An RRB representative interviews the applicant either at a field office, an itinerant point, or by telephone. During the interview, the RRB representative enters the information obtained into an on-line information system. Upon completion of the interview, the on-line information system generates Form AA–1cert, *Application Summary and Certification*, or Form AA–1sum, *Application Summary*, a summary of the information that was provided for the applicant to review and approve. Form AA–1cert documents approval using the traditional pen and ink “wet” signature, and Form AA–1sum documents approval using the alternative signature method called Attestation. When the RRB representative is unable to contact the applicant in person or by telephone, for example, the applicant lives in another country, a manual version of Form AA–1 is used.

Form AA–1d, *Application for Determination of Employee's Disability*,

is completed by an employee who is filing for a disability annuity under the RRA, or a disability freeze under the Social Security Act, for early Medicare based on a disability. Form G–204, *Verification of Worker's Compensation/Public Disability Benefit Information*, is used to obtain and verify information concerning a worker's compensation or a public disability benefit that is or will be paid by a public agency to a disabled railroad employee.

One response is requested of each respondent. Completion of the forms is required to obtain/retain a benefit.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 43415 on September 15, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application for Employee Annuity Under the Railroad Retirement Act.

OMB Control Number: 3220–0002.

Form(s) submitted: AA–1, AA–1cert, AA–1d, AA–1sum and G–204.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: The Railroad Retirement Act provides for payment of age, disability and supplemental annuities to qualified employees. The application and related forms obtain information about the applicant's family work history, military service, disability benefits from other government agencies and public or private pensions. The information is used to determine entitlement to and the amount of the annuity applied for.

Changes proposed: The RRB proposes to add the following two new items—“Are you expecting a newborn?” and its possible “Yes” response—“Expected Date” to Form AA–1. This information will help determine if the applicant can potentially receive an additional benefit amount. The RRB also proposes the implementation of an Internet equivalent version of Form AA–1 that can be completed by the applicant and submitted through the RRB's Web site at www.rrb.gov. The RRB proposes no changes to Forms AA–1d or G–204.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–1 (without assistance)	35	62	36
AA–1cert (with assistance)	7,050	30	3,525
AA–1sum (with assistance)	2,415	29	1,167
AA–1 (Internet) (without assistance)	3,220	45	2,415
AA–1d (with assistance)	2,600	60	2,600

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA-1d (without assistance)	5	85	7
G-204	20	15	5
Total	15,345	.....	9,755

2. Title and purpose of information collection: Availability for Work; OMB 3220-0164.

Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work.

Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, "available for work" is defined as being willing and ready for work. A claimant is "willing" to work if willing to accept and perform for hire such work as is reasonably appropriate to his or her employment circumstances. A claimant is "ready" for work if he or she (1) is in a position to receive notice of work and is willing to accept and perform such work, and (2) is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that reasonable efforts are being made to obtain work. In order to

determine whether a claimant is; (a) available for work, and (b) willing to work, the RRB utilizes Forms UI-38, UI Claimant's Report of Efforts to Find Work, and UI-38s, School Attendance and Availability Questionnaire, to obtain information from the claimant and Form ID-8k, Questionnaire—Reinstatement of Discharged or Suspended Employee, from the union representative. One response is completed by each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 42368 on September 7, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Availability for Work.
OMB Control Number: 3220-0164.
Form(s) submitted: UI-38, UI-38s, and ID-8k.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households, Non-profit institutions.

Abstract: Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day in which the claimant is not available for work. The collection obtains information needed by the RRB to determine whether a claimant is willing and ready to work.

Changes proposed: The RRB proposes the following changes to Forms UI-38 and UI-38s and proposes no changes to Form ID-8k.

- Form UI-38.
 - We propose adding that the claimant can now use online options when searching for a job.
 - We propose to inform the claimant to register with the State Employment Service and provide proof of the registration to the RRB.
- Form UI-38s—We propose to add an online school selection for students who cannot provide their class hours because their courses are online.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI-38s (in person) *	59	6	6
UI-38s (by mail) *	119	10	20
UI-38	3,485	11.5	668
ID-8k	6,461	5	538
Total	10,124	.....	1,232

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751-4981 or Dana.Hickman@RRB.GOV.

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-1275 or Brian.Foster@rrb.gov and to the OMB Desk Officer for the RRB, Fax: 202-395-6974, Email address: OIRA_Submission@omb.eop.gov.

Brian D. Foster,
 Clearance Officer.

[FR Doc. 2017-25133 Filed 11-20-17; 8:45 am]

BILLING CODE 7905-01-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance

the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Student Beneficiary Monitoring; OMB 3220-0123. Under provisions of the Railroad Retirement Act (RRA), there are two types of benefit payments that are based on the status of a child being in full-time elementary or secondary school attendance at age 18-19: (1) A survivor child's annuity benefit under Section 2(d)(1)(iii) and (2) an increase in the employee retirement annuity under the Special Guaranty

computation as prescribed in section 3(f)(2) and 20 CFR 229.

The survivor student annuity is usually paid by direct deposit to a financial institution either into the student's checking or savings account or into a joint bank account with a parent. The requirements for eligibility as a student are prescribed in 20 CFR 216.74, and include students in independent study and home schooling.

To help determine if a child is entitled to student benefits, the RRB

requires evidence of full-time school attendance. This evidence is acquired through the RRB's student monitoring program, which utilizes the following forms. Form G-315, Student Questionnaire, obtains certification of a student's full-time school attendance as well as information on the student's marital status, social security benefits, and employment, which are needed to determine entitlement or continued entitlement to benefits under the RRA.

Form G-315A, Statement of School Official, is used to obtain, from a school, verification of a student's full-time attendance when the student fails to return a monitoring Form G-315. Form G-315A.1, School Official's Notice of Cessation of Full-Time School Attendance, is used by a school to notify the RRB that a student has ceased full-time school attendance. The RRB proposes no changes to Forms G-315, G-315a, or G-315a.1.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-315	860	15	215
G-315a	20	3	1
G-315a.1	20	2	1
Total	900	.....	217

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751-4981 or Dana.Hickman@RRB.GOV. Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-1275 or emailed to Brian.Foster@rrb.gov. Written comments should be received within 60 days of this notice.

Brian D. Foster,
Clearance Officer.

[FR Doc. 2017-25171 Filed 11-20-17; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82090; File No. SR-FICC-2017-002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change To Implement the Capped Contingency Liquidity Facility in the Government Securities Division Rulebook

November 15, 2017.

I. Introduction

Fixed Income Clearing Corporation ("FICC") filed with the U.S. Securities and Exchange Commission ("Commission") on March 1, 2017 the proposed rule change SR-FICC-2017-002 ("Proposed Rule Change") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange

Act")¹ and Rule 19b-4 thereunder.² The Proposed Rule Change was published for comment in the **Federal Register** on March 20, 2017.³ The Commission received five comment letters⁴ to the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4. FICC also filed the Proposed Rule Change as advance notice SR-FICC-2017-802 ("Advance Notice") pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b-4(n)(1)(i) under the Exchange Act, 17 CFR 240.19b-4(n)(1)(i). Notice of filing of the Advance Notice was published for comment in the **Federal Register** on March 15, 2017. Securities Exchange Act Release No. 80191 (March 9, 2017), 82 FR 13876 (March 15, 2017) (SR-FICC-2017-802). The Commission extended the deadline for its review period of the Advance Notice from April 30, 2017 to June 29, 2017. Securities Exchange Act Release No. 80520 (April 25, 2017), 82 FR 20404 (May 1, 2017) (SR-FICC-2017-802). The Commission issued a notice of no objection to the Advance Notice on June 29, 2017. Securities Exchange Act Release No. 81054 (June 29, 2017), 82 FR 31356 (July 6, 2017).

³ Securities Exchange Act Release No. 80234 (March 14, 2017), 82 FR 14401 (March 20, 2017) (SR-FICC-2017-002) ("Notice").

⁴ See letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin Capital LLC ("Ronin"), dated April 10, 2017, to Robert W. Errett, Deputy Secretary, Commission ("Ronin Letter I"); letter from Timothy J. Cuddihy, Managing Director, FICC, dated April 25, 2017, to Robert W. Errett, Deputy Secretary, Commission ("FICC Letter I"); letter from Alan B. Levy, Managing Director, Industrial and Commercial Bank of China Financial Services LLC ("ICBC"), Philip Vandermause, Director, Aardvark Securities LLC ("Aardvark"), David Rutter, Chief Executive Officer, LiquidityEdge LLC, Robert Pooler, Chief Financial Officer, Ronin, Jason Manumaleuna, Chief Financial Officer and EVP, Rosenthal Collins Group LLC ("Rosenthal Collins"), and Scott Skyrn, Managing Director, Wedbush Securities Inc. ("Wedbush") dated May 24, 2017 ("ICBC Letter I"); letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin, dated June 19, 2017, to Robert W. Errett, Deputy Secretary, Commission ("Ronin Letter II"); and letter from Alan B. Levy, Managing Director, ICBC, Philip Vandermause, Director, Aardvark, Robert Pooler, Chief Financial Officer, Ronin, and Scott Skyrn, Managing Director,

Proposed Rule Change. On April 25, 2017, the Commission designated a longer period within which to approve the Proposed Rule Change, disapprove the Proposed Rule Change, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.⁵ On May 30, 2017, the Commission issued an order instituting proceedings to determine whether to approve or disapprove the Proposed Rule Change.⁶ On September 15, 2017, the Commission designated a longer period on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.⁷ The extension gave the Commission until November 15, 2017 to either approve or disapprove the Proposed Rule Change and re-opened the comment period until October 6, 2017 for initial comments and October 12, 2017 for rebuttal comments. The Commission received

Wedbush, dated June 27, 2017, to Robert W. Errett, Deputy Secretary, Commission ("ICBC Letter II") available at <https://www.sec.gov/comments/sr-ficc-2017-002/ficc2017002.htm>. Because the proposal contained in the Proposed Rule Change was also filed in the Advance Notice, see *supra* note 2, the Commission is considering all comments received on the proposal regardless of whether the comments are submitted to the Proposed Rule Change or the Advance Notice.

⁵ See Securities Exchange Act Release No. 80524 (April 25, 2017), 82 FR 20685 (May 3, 2017) (SR-FICC-2017-002).

⁶ See Securities Exchange Act Release No. 80812 (May 30, 2017), 82 FR 25642 (June 2, 2017) (SR-FICC-2017-002).

⁷ See Securities Exchange Act Release No. 81638 (September 15, 2017), 82 FR 44234 (September 21, 2017) (SR-FICC-2017-002) ("OIP Extension").

five additional comment letters,⁸ for a total of ten comment letters.

II. Description of the Proposed Rule Change

With this Proposed Rule Change, FICC proposes to amend its Government Securities Division (“GSD”)⁹ Rulebook (“GSD Rules”)¹⁰ to establish a rules-based, committed liquidity resource (*i.e.*, the Capped Contingency Liquidity Facility[®] (“CCLF”)). FICC states that the CCLF is designed to comply with Rule 17Ad–22(e)(7) under the Exchange Act,¹¹ by providing FICC with a committed liquidity resource to meet its cash settlement obligations in the event of a default of the GSD Netting Member¹² or family of affiliated Netting Members (“Affiliated Family”) to which FICC has the largest exposure in extreme but plausible market conditions.¹³

A. Overview of the Proposal

The CCLF would be invoked only if FICC declared a “CCLF Event.” FICC would declare a CCLF Event only if FICC ceased to act for a Netting Member in accordance with GSD Rule 22A (referred to as a “default”) and, subsequent to such default, FICC

determined that its other liquidity resources could not generate sufficient cash to satisfy FICC’s payment obligations to the non-defaulting Netting Members.¹⁴ Once FICC declares a CCLF Event, each Netting Member could be called upon to enter into repurchase (“repo”) transactions with FICC (“CCLF Transactions”) up to a pre-determined capped dollar amount, as described below.

1. Declaration of a CCLF Event

Following a default, FICC would first obtain liquidity through its other available non-CCLF liquidity resources.¹⁵ If FICC determined that these sources of liquidity would be insufficient to meet FICC’s payment obligations to its non-defaulting Netting Members, FICC would declare a CCLF Event.¹⁶ FICC would notify all Netting Members of FICC’s need to make such a declaration and enter into CCLF Transactions, as necessary, by issuing an Important Notice.¹⁷

2. CCLF Transactions

Upon declaring a CCLF Event, FICC would meet its liquidity need by initiating CCLF Transactions with non-defaulting Netting Members.¹⁸ The CCLF Transaction would replace the original transaction that required FICC to pay cash to the non-defaulting Netting Member and, in turn, required the non-defaulting Netting Member to deliver securities to FICC.¹⁹ The obligations of that original transaction would be deemed satisfied by entering into the CCLF Transaction.²⁰

Each CCLF Transaction would be governed by the terms of the September 1996 Securities Industry and Financial Markets Association Master Repurchase Agreement (“SIFMA MRA”),²¹ which

would be incorporated by reference into the GSD Rules as a master repurchase agreement between FICC as seller and each Netting Member as buyer, with certain modifications as outlined in the GSD Rules (“CCLF MRA”).²²

To initiate CCLF Transactions with non-defaulting Netting Members, FICC would identify the non-defaulting Netting Members that are obligated to deliver securities destined for the defaulting Netting Member (“Direct Affected Members”) and FICC’s cash payment obligation to such Direct Affected Members that FICC would need to finance through CCLF to cover the defaulting Netting Member’s failure to deliver the cash payment (“Financing Amount”).²³ FICC would notify each Direct Affected Member of the Direct Affected Member’s Financing Amount and whether such Direct Affected Member should deliver to FICC or suppress any securities that were destined for the defaulting Netting Member.²⁴ FICC would then initiate CCLF Transactions with each Direct Affected Member for the Direct Affected Member’s purchase of the securities that were destined for the defaulting Netting Member (“Financed Securities”).²⁵ The aggregate purchase price of the CCLF Transactions with the Direct Affected Member could equal but never exceed the Direct Affected Member’s maximum CCLF funding obligation (“Individual Total Amount”).²⁶

If any Direct Affected Member’s Financing Amount exceeds its Individual Total Amount (“Remaining Financing Amount”), FICC would advise the following categories of Netting Members (collectively, “Affected Members”) that FICC intends to initiate CCLF Transactions for the Remaining Financing Amount with: (i) All other Direct Affected Members with a Financing Amount less than their Individual Total Amounts; and (ii) each Netting Member that has not otherwise entered into CCLF Transactions with FICC (“Indirect Affected Members”).²⁷

FICC states that the order in which FICC would enter into CCLF Transactions for the Remaining Financing Amount would be based upon the Affected Members that have

⁸ Letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin, Alan B. Levy, Managing Director, ICBC, Philip Vandermause, Director, Aardvark, and Jason Manumaleuna, Chief Financial Officer and EVP, Rosenthal Collins, dated October 6, 2017, to Eduardo Aleman, Assistant Secretary, Commission (“Ronin Letter III”); letter from Alan B. Levy, Managing Director, ICBC, and Robert Pooler, Chief Financial Officer, Ronin, dated October 6, 2017, to Eduardo Aleman, Assistant Secretary, Commission (“ICBC Letter III”); letter from Timothy J. Cuddihy, Managing Director, FICC, dated October 6, 2017, to Robert W. Errett, Deputy Secretary, Commission (“FICC Letter II”); letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin, and Alan B. Levy, Managing Director, ICBC, dated October 12, 2017, to Eduardo Aleman, Assistant Secretary, Commission (“Ronin Letter IV”); and letter from Theodore Bragg, Vice President—Strategic Planning, Nasdaq, Inc. (“Nasdaq”), to Brent J. Fields, Secretary, Commission (“Nasdaq Letter”) available at <https://www.sec.gov/comments/sr-ficc-2017-002/ficc2017002.htm>.

⁹ FICC operates two divisions—GSD and the Mortgage-Backed Securities Division (“MBSD”). GSD provides trade comparison, netting, risk management, settlement and central counterparty services for the U.S. government securities market, while MBSD provides the same services for the U.S. mortgage-backed securities market. Because GSD and MBSD are separate divisions of FICC, each division maintains its own rules, members, margin from their respective members, clearing fund, and liquid resources.

¹⁰ Available at www.dtcc.com/legal/rules-and-procedures.aspx.

¹¹ 17 CFR 240.17Ad–22(e)(7). See Section III.C., *infra*, for further discussion of Rule 17Ad–22(e)(7) and other applicable Exchange Act provisions.

¹² As defined in the GSD Rules, the term “Netting Member” means a GSD member that is a member of the GSD Comparison System and the Netting System. *GSD Rules, supra note 10*.

¹³ See Notice, 82 FR at 14402.

¹⁴ FICC’s current liquidity resources for GSD consist of (i) cash in GSD’s clearing fund; (ii) cash that can be obtained by entering into uncommitted repurchase (“repo”) transactions using securities in the clearing fund; (iii) cash that can be obtained by entering into uncommitted repo transactions using the securities that were destined for delivery to the defaulting Netting Member; and (iv) uncommitted bank loans. See *id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Available at <http://www.sifma.org/services/standard-forms-and-documentation/mra,-gmra,-msla-and-msftas/>. The SIFMA MRA would be incorporated by reference into the GSD Rules without referenced annexes, other than Annex VII (Transactions Involving Registered Investment Companies), which would be applicable to any Netting Member that is a registered investment company. Notice, 82 at 14402. FICC represents that, at the time of filing the Proposed Rule Change, there were no registered investment companies that are also GSD Netting Members. *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ FICC states that it would have the authority to initiate CCLF Transactions with respect to any securities that are in the Direct Affected Member’s portfolio that are bound for delivery to the defaulting Netting Member. *Id.*

²⁶ *Id.* The sizing of each Direct Affected Member’s Individual Total Amount is described below in Section II.B.

²⁷ See Notice, 82 FR at 14402–03.

the most funding available within their Individual Total Amounts.²⁸ No Affected Member would be obligated to enter into CCLF Transactions greater than its Individual Total Amount.²⁹

After receiving approval from FICC's Board of Directors to do so, FICC would engage its investment adviser during a CCLF Event to minimize liquidation losses on the Financed Securities through hedging, strategic dispositions, or other investment transactions as determined by FICC under relevant market conditions.³⁰ Once FICC liquidates the underlying securities by selling them to a new buyer ("Liquidating Trade"), FICC would instruct the Affected Member, including the initial Direct Affected Members, to close the CCLF Transaction by delivering the Financed Securities to FICC in order to complete settlement of the Liquidating Trade.³¹ FICC would attempt to unwind the CCLF Transactions in the order it entered into the Liquidating Trades. Each CCLF Transaction would remain open until the earlier of (i) such time that FICC liquidates the Affected Member's, including the initial Direct Affected Member's, Financed Securities; (ii) such time that FICC obtains liquidity through its available liquid resources; or (iii) 30 or 60 calendar days after entry into the CCLF Transaction for U.S. government bonds and mortgage-backed securities, respectively.³²

B. CCLF Sizing and Allocation

According to FICC, its overall liquidity need during a CCLF Event would be determined by the cash settlement obligations presented by the default of a Netting Member and its Affiliated Family, as described below.³³ An additional amount ("Liquidity Buffer") would be added to account for both changes in Netting Members' cash settlement obligations that may not be observed during the six-month look-back period during which CCLF would be sized, and the possibility that the defaulting Netting Member is the largest CCLF contributor.³⁴

The proposal would allocate FICC's observed liquidity need during a CCLF Event among all Netting Members based on their historical settlement activity, but states that Netting Members that present the highest cash settlement obligations would be required to

maintain higher CCLF funding obligations.³⁵

The steps that FICC would take to size its overall liquidity need during a CCLF event and then size and allocate each Netting Member's CCLF contribution requirement are described below.

Step 1: CCLF Sizing

(A) Historical Cover 1 Liquidity Requirement

FICC's historical liquidity need for the six-month look-back period would be equal to the largest liquidity need generated by an Affiliated Family during the preceding six-month period.³⁶ The amount would be determined by calculating the largest sum of an Affiliated Family's obligation to receive GSD eligible securities plus the net dollar amount of its Funds-Only Settlement Amount (collectively, the "Historical Cover 1 Liquidity Requirement").³⁷ FICC believes that it is appropriate to calculate the Historical Cover 1 Liquidity Requirement in this manner because the default of such an Affiliated Family would generate the largest liquidity need for FICC.³⁸

(B) Liquidity Buffer

According to FICC, it is cognizant that the Historical Cover 1 Liquidity Requirement would not account for changes in a Netting Member's current trading behavior, which could result in a liquidity need greater than the Historical Cover 1 Liquidity Requirement.³⁹ To account for this potential shortfall, FICC proposes to add a Liquidity Buffer as an additional amount to the Historical Cover 1 Liquidity Requirement, which would help to better anticipate GSD's total liquidity need during a CCLF Event.⁴⁰

FICC states that the Liquidity Buffer would initially be 20 percent of the Historical Cover 1 Liquidity Requirement (and between 20 to 30 percent thereafter), subject to a minimum amount of \$15 billion.⁴¹ FICC

³⁵ *Id.*

³⁶ *Id.*

³⁷ According to FICC, the Funds-Only Settlement Amount reflects the amount that FICC collects and passes to the contra-side once FICC marks the securities in a Netting Member's portfolio to the current market value. *Id.* FICC states that this amount is the difference between the contract value and the current market value of a Netting Member's GSD portfolio. *Id.* FICC states that it would consider this amount when calculating the Historical Cover 1 Liquidity Requirement because in the event that an Affiliated Family defaults, the Funds-Only Settlement Amount would also reflect the cash obligation to non-defaulting Netting Members. *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *See id.* at 14404. For example, if the Historical Cover 1 Liquidity Requirement was \$100 billion,

believes that 20 to 30 percent of the Historical Cover 1 Liquidity Requirement is appropriate based on its analysis and statistical measurement of the variance of its daily liquidity need throughout 2015 and 2016.⁴² FICC also believes that the \$15 billion minimum dollar amount is necessary to cover changes in a Netting Member's trading activity that could exceed the amount that is implied by such statistical measurement.⁴³

FICC would have the discretion to adjust the Liquidity Buffer, within the range of 20 to 30 percent of the Historical Cover 1 Liquidity Requirement, based on its analysis of the stability of the Historical Cover 1 Liquidity Requirement over various time horizons.⁴⁴ According to FICC, this would help ensure that its liquidity resources are sufficient under a wide range of potential market scenarios that may lead to a change in a Netting Member's trading behavior.⁴⁵ FICC also states that it would analyze the trading behavior of Netting Members that present larger liquidity needs than the majority of the Netting Members, as described below.⁴⁶

(C) Aggregate Total Amount

FICC's anticipated total liquidity need during a CCLF Event (*i.e.*, the sum of the Historical Cover 1 Liquidity Requirement plus the Liquidity Buffer) would be referred to as the "Aggregate Total Amount." ⁴⁷ The Aggregate Total Amount initially would be set to the Historical Cover 1 Liquidity Requirement plus the greater of 20 percent of the Historical Cover 1 Liquidity Requirement or \$15 billion.⁴⁸

the Liquidity Buffer initially would be \$20 billion (\$100 billion x 0.20), for a total of \$120 billion in potential liquidity resources.

⁴² According to FICC, it uses a statistical measurement called the "coefficient of variation," which is calculated as the standard deviation divided by the mean, to quantify the variance of Affiliated Families' daily liquidity needs. *See id.* at 14403. FICC states that this is a typical approach used to compare variability across different data sets. *Id.* FICC states that it will use the coefficient of variation to set the Liquidity Buffer by quantifying the variance of each Affiliated Family's daily liquidity need. *Id.* FICC believes that a Liquidity Buffer of 20 to 30 percent, subject to a minimum of \$15 billion, would be an appropriate Liquidity Buffer because FICC found that, throughout 2015 and 2016, the coefficient of variation ranged from an average of 15 to 19 percent for Affiliated Families with liquidity needs above \$50 billion, and an average of 18 to 21 percent for Affiliated Families with liquidity needs above \$35 billion. *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *See* Notice, 82 FR at 14403-04.

⁴⁸ *See id.* at 14404.

²⁸ *See id.* at 14403.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

Step 2: Allocation of the Aggregate Total Amount Among Netting Members

(A) Allocation of the Aggregate Regular Amount Among Netting Members

The Aggregate Total Amount would be allocated among Netting Members in order to arrive at each Netting Member's Individual Total Amount. FICC would take a tiered approach in its allocation of the Aggregate Total Amount. First, FICC would determine the portion of the Aggregate Total Amount that should be allocated among all Netting Members ("Aggregate Regular Amount"), which FICC states initially would be set at \$15 billion.⁴⁹ FICC believes that this amount is appropriate because the average Netting Member's liquidity need from 2015 to 2016 was approximately \$7 billion, with a majority of Netting Members having liquidity needs less than \$15 billion.⁵⁰ Based on that analysis, FICC believes that the \$15 billion Aggregate Regular Amount should capture the liquidity needs of a majority of the Netting Members.⁵¹

Under the proposal, the Aggregate Regular Amount would be allocated among all Netting Members, but Netting Members with larger Receive Obligations⁵² would be required to contribute a larger amount.⁵³ FICC believes that this approach is appropriate because a defaulting Netting Member's Receive Obligations are the primary cash settlement obligations that FICC would have to satisfy as a result of the default of an Affiliated Family.⁵⁴ However, FICC also believes that, because FICC guarantees both sides of a GSD Transaction and all Netting Members benefit from FICC's risk mitigation practices, some portion of the Aggregate Regular Amount should be allocated based on Netting Members' aggregate Deliver Obligations⁵⁵ as

⁴⁹ *Id.*

⁵⁰ According to FICC, from 2015 to 2016, 59 percent of all Netting Members presented average liquidity needs between \$0 and \$5 billion, 78 percent of all Netting Members presented average liquidity needs between \$0 and \$10 billion, and 85 percent of all Netting Members presented average liquidity needs between \$0 and \$15 billion. *Id.*

⁵¹ *Id.*

⁵² "Receive Obligation" means a Netting Member's obligation to receive eligible netting securities from FICC at the appropriate settlement value, either in satisfaction of all or a part of a Net Long Position (*i.e.*, an obligation under the GSD Rules to receive securities from FICC), or to implement a collateral substitution in connection with a Repo Transaction with a right of substitution. GSD Rules, *supra* note 10.

⁵³ See Notice, 82 FR at 14404.

⁵⁴ *Id.*

⁵⁵ "Deliver Obligation" means a Netting Member's obligation to deliver eligible netting securities to FICC at the appropriate settlement value either in satisfaction of all or a part of a Net Short Position (*i.e.*, an obligation under the GSD

well.⁵⁶ As a result, FICC proposes to allocate the Aggregate Regular Amount based on a scaling factor. Given that the Aggregate Regular Amount would be initially sized at \$15 billion and would cover approximately 80 percent of Netting Members' observed liquidity needs, FICC proposes to set the scaling factor in the range of 65 to 85 percent to the value of Netting Members' Receive Obligations, and in the range of 15 to 35 percent to the value of Netting Members' Deliver Obligations.⁵⁷

FICC states that it would initially assign a 20 percent weighting percentage to a Netting Member's aggregate peak Deliver Obligations ("Deliver Scaling Factor") and the remaining percentage difference, 80 percent in this case, to a Netting Member's aggregate peak Receive Obligations ("Receive Scaling Factor").⁵⁸ FICC would have the discretion to adjust these scaling factors based on a quarterly analysis that would, in part, assess Netting Members' observed liquidity needs that are at or below \$15 billion.⁵⁹ FICC believes that this assessment would help ensure that the Aggregate Regular Amount would be appropriately allocated across all Netting Members.⁶⁰

Second, as discussed in more detail below, after allocating the Aggregate Regular Amount, FICC would allocate the remainder of the Aggregate Total Amount ("Aggregate Supplemental Amount") among Netting Members that incurred liquidity needs above the Aggregate Regular Amount within the six-month look-back period.⁶¹ For example, a Netting Member with a \$7 billion peak daily liquidity need would only contribute to the Aggregate Regular Amount, based on the calculation described below. Meanwhile a Netting Member with a \$45 billion peak daily liquidity would contribute towards both the Aggregate Regular Amount and the

Rules to deliver securities to FICC) or to implement a collateral substitution in connection with a Repo Transaction with a right of substitution. GSD Rules, *supra* note 10.

⁵⁶ See Notice, 82 FR at 14404.

⁵⁷ *Id.*

⁵⁸ For example, assume that a Netting Member's peak Receive and Deliver Obligations represent 5 and 3 percent, respectively, of the sum of all Netting Members' peak Receive and peak Deliver Obligations. The Netting Member's portion of the Aggregate Regular Amount ("Individual Regular Amount") would be \$600 million (\$15 billion * 0.80 Receive Scaling Factor * 0.05 Peak Receive Obligation Percentage), plus \$90 million (\$15 billion * 0.20 Deliver Scaling Factor * 0.03 Peak Deliver Obligation Percentage), for a total of \$690 million.

⁵⁹ See Notice, 82 FR at 14404.

⁶⁰ *Id.*

⁶¹ *Id.*

Aggregate Supplemental Amount, as described below.

FICC believes that this tiered approach reflects a reasonable, fair, and transparent balance between FICC's need for sufficient liquidity resources and the burdens of the funding obligations on each Netting Member's management of its own liquidity.⁶²

(B) FICC's Allocation of the Aggregate Supplemental Amount Among Netting Members

The remainder of the Aggregate Total Amount (*i.e.*, the Aggregate Supplemental Amount) would be allocated among Netting Members that present liquidity needs greater than \$15 billion across liquidity tiers in \$5 billion increments ("Liquidity Tiers").⁶³ As described in greater detail in the Notice, the specific allocation of the Aggregate Supplemental Amount to each Liquidity Tier would be based on the frequency that Netting Members generated liquidity needs within each Liquidity Tier, relative to the other Liquidity Tiers.⁶⁴ More specifically, once the Aggregate Supplemental Amount is divided among the Liquidity Tiers, the amount within each Liquidity Tier would be allocated among the applicable Netting Members, based on the relative frequency that a Netting Member generated liquidity needs within each Liquidity Tier.⁶⁵ FICC explains that this allocation would result in a larger proportion of the Aggregate Supplemental Amount being borne by those Netting Members that present the highest liquidity needs.⁶⁶

The sum of a Netting Member's allocation across all Liquidity Tiers would be such Netting Member's Individual Supplemental Amount.⁶⁷ FICC would add each Netting Member's Individual Supplemental Amount (if any) to its Individual Regular Amount to arrive at such Netting Member's Individual Total Amount.⁶⁸

⁶² *Id.*

⁶³ FICC believes that this increment would appropriately distinguish Netting Members that present the highest liquidity needs on a frequent basis and allocate more of the Individual Supplemental Amount to Netting Members in the top Liquidity Tiers. *Id.*

⁶⁴ See Notice, 82 FR at 14404–05.

⁶⁵ For example, if the Aggregate Supplemental Amount is \$50 billion and Tier 1 has a relative frequency weighting of 33 percent, all Netting Members that have generated liquidity needs that fall within Tier 1 would collectively fund \$16.5 billion (\$50 billion * 0.33) of the Supplemental Amount. Each Netting Member in that tier would be responsible for contributing toward the \$16.5 billion, based on the relative frequency that the member generated liquidity needs within that tier.

⁶⁶ See Notice, 82 FR at 14404–05.

⁶⁷ See *id.* at 14405.

⁶⁸ *Id.*

C. FICC's Ongoing Assessment of the Sufficiency of CCLF

As described above, the Aggregate Total Amount and each Netting Member's Individual Total Amount (*i.e.*, each Netting Member's allocation of the Aggregate Total Amount) would initially be calculated using a six-month look-back period that FICC would reset every six months ("reset period").⁶⁹ FICC states that, on a quarterly basis, FICC would assess the following parameters used to calculate the Aggregate Total Amount, and could consider changes to such parameters if necessary and appropriate:

- The largest peak daily liquidity need of an Affiliated Family;
- the Liquidity Buffer;
- the Aggregate Regular Amount;
- the Aggregate Supplemental Amount;
- the Deliver Scaling Factor and the Receive Scaling Factor used to allocate the Aggregate Regular Amount;
- the increments for the Liquidity Tiers; and
- the length of the look-back period and the reset period for the Aggregate Total Amount.⁷⁰

FICC represents that, in the event that any changes to the above-referenced parameters result in an increase in a Netting Member's Individual Total Amount, such increase would be effective as of the next bi-annual reset.⁷¹

Additionally, on a daily basis, FICC would examine the Aggregate Total Amount to ensure that it is sufficient to satisfy FICC's liquidity needs.⁷² If FICC determines that the Aggregate Total Amount is insufficient to satisfy its liquidity needs, FICC would have the discretion to change the length of the six-month look-back period, the reset period, or otherwise increase the Aggregate Total Amount.⁷³

Any increase in the Aggregate Total Amount resulting from FICC's quarterly assessments or FICC's daily monitoring would be subject to approval from FICC management.⁷⁴ Increases to a Netting Member's Individual Total Amount as a result of its daily monitoring would not be effective until ten business days after FICC issues an Important Notice regarding the increase.⁷⁵ Reductions to the Aggregate Total Amount would be reflected at the conclusion of the reset period.⁷⁶

D. Implementation of the Proposed Changes and Required Attestation From Each Netting Member

The CCLF proposal would become operative 12 months after the later date of the Commission's approval of the Proposed Rule Change and the Commission's notice of no objection to the related Advance Notice.⁷⁷ FICC represents that, during this 12-month period, it would periodically provide each Netting Member with estimated Individual Total Amounts.⁷⁸ FICC states that the delayed implementation and the estimated Individual Total Amounts are designed to give Netting Members the opportunity to assess the impact that the CCLF proposal would have on their business profile.⁷⁹

FICC states that, as of the implementation date and annually thereafter, FICC would require that each Netting Member attest that it incorporated its Individual Total Amount into its liquidity plans.⁸⁰ This required attestation, which would be from an authorized officer of the Netting Member or otherwise in form and substance satisfactory to FICC, would certify that (i) such officer has read and understands the GSD Rules, including the CCLF rules; (ii) the Netting Member's Individual Total Amount has been incorporated into the Netting Member's liquidity planning;⁸¹ (iii) the Netting Member acknowledges and agrees that its Individual Total Amount may be changed at the conclusion of any reset period or otherwise upon ten business days' notice; (iv) the Netting Member will incorporate any changes to its Individual Total Amount into its liquidity planning; and (v) the Netting Member will continually reassess its liquidity plans and related operational plans, including in the event of any changes to such Netting Member's Individual Total Amount, to ensure such Netting Member's ability to meet its Individual Total Amount.⁸² FICC states that it may require any Netting Member to provide FICC with a new certification in the foregoing form at any time, including upon a change to a Netting Member's Individual Total Amount or in the event that a Netting

Member undergoes a change in its corporate structure.⁸³

On a quarterly basis, FICC would conduct due diligence to assess each Netting Member's ability to meet its Individual Total Amount.⁸⁴ This due diligence would include a review of all information that the Netting Member has provided FICC in connection with its ongoing reporting obligations pursuant to the GSD Rules and a review of other publicly available information.⁸⁵ FICC also would test its operational procedures for invoking a CCLF Event and Netting Members would be required to participate in such tests.⁸⁶ If a Netting Member failed to participate in such testing when required by FICC, FICC would be permitted to take disciplinary measures as set forth in GSD Rule 3, Section 7.⁸⁷

E. Liquidity Funding Reports Provided to Netting Members

On each business day, FICC would make a liquidity funding report available to each Netting Member that would include (i) the Netting Member's Individual Total Amount, Individual Regular Amount, and, if applicable, its Individual Supplemental Amount; (ii) FICC's Aggregate Total Amount, Aggregate Regular Amount, and Aggregate Supplemental Amount; and (iii) FICC's regulatory liquidity requirements as of the prior business day.⁸⁸ The liquidity funding report would be provided for informational purposes only.⁸⁹

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act⁹⁰ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change and all comments received, the Commission finds that the Proposed Rule Change is consistent with the Exchange Act and the rules and regulations thereunder applicable to FICC.⁹¹ In particular, as discussed

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ According to FICC, the attestation would not refer to the actual dollar amount that has been allocated as the Individual Total Amount. *Id.* FICC explains that each Netting Member's Individual Total Amount would be made available to such Member via GSD's access controlled portal Web site. *Id.*

⁸² *Id.*

⁸³ *Id.* at 14406–07.

⁸⁴ *Id.* at 14407.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*; GSD Rules, *supra* note 10.

⁸⁸ Notice, 82 FR at 14407.

⁸⁹ *Id.*

⁹⁰ 15 U.S.C. 78s(b)(2)(C).

⁹¹ In approving this Proposed Rule Change, the Commission has considered the proposed rule's

⁶⁹ See *id.* at 14406.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

below, the Commission finds that the Proposed Rule Change is consistent with: (1) Section 17A(b)(3)(F) of the Exchange Act,⁹² which requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, protect investors and the public interest; (2) Section 17A(b)(3)(I) of the Exchange Act, which requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act;⁹³ and (3) Rule 17Ad-22(e)(7) under the Exchange Act, which requires a covered clearing agency⁹⁴ to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.⁹⁵

The Commission received ten comment letters in response to the proposal. Eight comment letters—Ronin Letters I, II, III, and IV; ICBC Letters I, II, and III; and the Nasdaq Letter—objected to the Proposed Rule Change.⁹⁶ The first comment letter from FICC responded to objections raised by Ronin.⁹⁷ The second comment letter from FICC responded to both objections raised by Ronin and ICBC in prior comment letters and to questions posed by the Commission in the OIP

impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f). The Commission addresses comments about economic effects of the Proposed Rule Change, including competitive effects, below.

⁹² 15 U.S.C. 78q-1(b)(3)(F).

⁹³ 15 U.S.C. 78q-1(b)(3)(I).

⁹⁴ FICC is a “covered clearing agency” as defined in 17 CFR 240.17Ad-22(a)(5) and (a)(6) because FICC was designated systemically important by the Financial Stability Oversight Council on July 18, 2012, pursuant to the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5461 *et seq.*). See Financial Stability Oversight Council 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>.

⁹⁵ 17 CFR 240.17Ad-22(e)(7).

⁹⁶ See Ronin Letter I, Ronin Letter II, Ronin Letter III, Ronin Letter IV, ICBC Letter I, ICBC Letter II, ICBC Letter III, and Nasdaq Letter.

⁹⁷ See FICC Letter I, Ronin Letter II and ICBC Letters I and II (both with Ronin as a co-signatory) raised the same substantive issues as Ronin Letter I. Accordingly, the Commission considers FICC Letter I to be responsive to Ronin Letters I and II and ICBC Letters I and II.

Extension.⁹⁸ Ronin Letter IV responds to FICC Letter II.⁹⁹

A. Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Exchange Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, protect investors and the public interest.¹⁰⁰

As described above, the CCLF is designed to provide FICC with sufficient qualifying liquid resources to cover the default of the family of affiliated GSD Netting Members that would generate the largest liquidity need for FICC. Specifically, the CCLF would be sized to meet GSD’s peak liquidity need during the prior six months, plus an additional Liquidity Buffer. FICC would monitor and assess on a daily basis the sufficiency of the Aggregate Total Amount and have the ability to increase this amount if FICC determines that it is insufficient to satisfy FICC’s liquidity needs. By providing FICC with this additional liquid resource, which is designed to cover GSD’s peak liquidity need, the proposal would help mitigate the risk that FICC would be unable to promptly meet its settlement obligations—specifically, its obligations to provide cash to non-defaulting Netting Members in reverse repo transactions where FICC is the central counterparty.

In addition, given FICC’s importance to the financial system as a designated systemically important financial market utility,¹⁰¹ by providing it with an additional liquidity resource to help meet its liquidity obligations in the midst of a CCLF Event, the Proposed Rule Change is designed to help FICC mitigate losses that a CCLF Event could cause not only to FICC and its non-defaulting Netting Members, but also to the financial markets more broadly. As such, the Proposed Rule Change could help promote the safeguarding of securities and funds in FICC’s custody and control, and thereby protect investors and the public interest.¹⁰²

⁹⁸ See FICC Letter II.

⁹⁹ See Ronin Letter IV.

¹⁰⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰¹ See *supra* note 94.

¹⁰² While both Ronin and ICBC raise concerns that the CCLF might increase concentration and systemic risks, the commenters generally express those concerns as outcomes that would arise as the result of negative competitive burdens that the CCLF would impose on smaller Netting Members.

For these reasons, the Commission believes that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions, safeguard securities and funds that are in the custody or control of FICC, and protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Exchange Act.

B. Section 17A(b)(3)(I) of the Exchange Act

Section 17A(b)(3)(I) of the Exchange Act requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.¹⁰³ This provision does not require the Commission to find that a proposed rule change represents the least anticompetitive means of achieving the goal. Rather, it requires the Commission to balance the competitive considerations against other relevant policy goals of the Exchange Act.¹⁰⁴

Both Ronin and ICBC argue that the CCLF obligations in the Proposed Rule Change would result in negative competitive burdens on FICC’s smaller Netting Members.¹⁰⁵ Specifically, Ronin and ICBC argue that the cost of complying with the CCLF could impose a disproportionately negative economic impact on smaller Netting Members, which could potentially force smaller Netting Members to either reduce their centrally cleared U.S. Treasury trading activity, clear through larger Netting Members, or leave GSD altogether (as well as create a barrier to entry for prospective new Netting Members).¹⁰⁶ Ronin further suggests that meeting obligations imposed by the CCLF will be more costly for some Netting Members than for others, based on their access to credit.¹⁰⁷ For example, Ronin states that it would have to pay for access to a committed line of credit each year to have sufficient resources to attest that it

For example, Ronin and ICBC argue that the proposal would likely increase market concentration because smaller Netting Members would exit FICC to avoid the burden of CCLF costs. See Ronin Letter II at 5; ICBC Letter I at 2. Accordingly, the Commission addresses such comments below in the Commission’s analysis of the proposal’s consistency with Section 17A(b)(3)(I) of the Exchange Act. 15 U.S.C. 78q-1(b)(3)(I).

¹⁰³ 15 U.S.C. 78q-1(b)(3)(I).

¹⁰⁴ See Bradford National Clearing Corp., 590 F.2d 1085, 1105 (D.C. Cir. 1978).

¹⁰⁵ See Ronin Letter I, Ronin Letter II, Ronin Letter III, Ronin Letter IV, ICBC Letter I, ICBC Letter II, and ICBC Letter III.

¹⁰⁶ ICBC Letter I at 2; ICBC Letter III at 2–3; Ronin Letter I at 2, 5–7; Ronin Letter II at 3–4; Ronin Letter IV at 7.

¹⁰⁷ Ronin Letter I at 2; Ronin Letter II at 1–5; Ronin Letter III at 2–4, 6–7; Ronin Letter IV at 6–8.

can meet its CCLF contribution requirement.¹⁰⁸ Ronin asserts that obtaining such a line of credit is not only “economically disadvantageous” but also “creates a dependency on an external entity which could prove to be an existential threat” (*i.e.*, the inability of non-bank Netting Members to secure a committed line of credit at a reasonable rate could cause such members to exit FICC).¹⁰⁹ In contrast, Ronin suggests that larger Netting Members with access to the Federal Reserve Discount Window (and resulting ability to easily borrow funds using U.S. government debt as collateral) would not necessarily have to pay for such credit lines and could merely “footnote the liability at no cost” or inform FICC that they are “good for [the CCLF contribution requirement].”¹¹⁰ Ronin argues that FICC has “failed to recognize this differential impact as a threat to GSD member diversity.”¹¹¹

Finally, ICBC and Nasdaq suggest that the Commission defer its decision on the Proposed Rule Change in order for detailed studies to be conducted on the CCLF¹¹² and the U.S. Treasury market more broadly.¹¹³ Nasdaq states that further studies should be conducted regarding CCLF costs and fees on FICC members as well as the resulting incentives and conduct of non-FICC members.¹¹⁴ ICBC states that studies should be conducted regarding the costs and benefits of CCLF, but should consider the effects of the CCLF on U.S. markets as a whole, rather than be confined to the narrow question of whether the proposal would provide FICC with more liquidity.¹¹⁵ ICBC also provides a non-exhaustive list of questions regarding the broad potential effects of the CCLF that such a study should consider.¹¹⁶

In response to comments regarding the potential economic impacts on smaller, non-bank Netting Members, FICC acknowledges that the proposal would place a committed funding requirement on Netting Members that could increase the cost of participating in GSD.¹¹⁷ FICC, however, states that the CCLF was designed to minimize the

burden on smaller Netting Members and achieve a fair and appropriate allocation of liquidity burdens.¹¹⁸ Specifically, FICC states that it structured the CCLF so that: (1) Each Netting Member’s CCLF requirement would be a function of the peak liquidity risk that each Netting Member’s activity presents to GSD; (2) the allocation of the CCLF requirement to each Netting Member would be a “fraction” of the Netting Member’s peak liquidity exposure that it presents to GSD;¹¹⁹ and (3) the proposal would fairly allocate higher CCLF requirements to Netting Members that generate higher liquidity needs.¹²⁰ FICC further states that because CCLF contributions would be a function of the peak liquidity exposure that each Netting Member presents to FICC, each Netting Member would be able to reduce its CCLF contribution by altering its trading activity.¹²¹ Additionally, contrary to Ronin’s assertion, FICC states that larger Netting Members will be required to hold capital for their CCLF obligations, and not simply declare that they “are good for it.”¹²²

As a general matter, the Commission acknowledges that a proposal to enhance FICC’s access to liquidity resources, such as this proposal, would entail costs that would be borne by Netting Members and market participants more generally. The proposal is designed to meet the liquidity requirements of Rule 17Ad–22(e)(7) under the Exchange Act.¹²³ And

¹¹⁸ FICC Letter I at 3–4.

¹¹⁹ *Id.* at 3. FICC notes that, on average, a Netting Member’s CCLF requirement would be less than 2.5 percent of their respective peak liquidity need, with the smallest Netting Members having a CCLF contribution requirement of approximately 1.5 percent of their peak liquidity need. *Id.* at 4–5.

¹²⁰ *Id.* at 3–4. FICC notes that the Aggregate Regular Amount (proposed to be sized at \$15 billion) would be applied to all Netting Members on a pro-rata basis, while the Aggregate Supplemental Amount, which would make up approximately 80 percent of the Aggregate Total Amount, would only apply to the Netting Members generating the largest liquidity needs (*i.e.*, in excess of \$15 billion). *Id.* at 4. FICC also notes that by allocating higher CCLF obligations to those Netting Members generating the largest liquidity needs, the CCLF will incentivize such Netting Members to manage their liquidity needs and thereby limit FICC’s Historical Cover 1 Liquidity Requirement. *Id.* at 5.

¹²¹ *Id.* at 3, 7.

¹²² *Id.* at 5.

¹²³ Rule 17Ad–22(e)(7)(i) requires a covered clearing agency, such as FICC, to maintaining sufficient liquid resources at the minimum, in all relevant currencies, to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions (*i.e.*, “Cover 1

in adopting amendments to that rule, the Commission acknowledged that there would be costs associated with compliance, either directly from members or through third-party arrangements, and that such costs may be passed on to other market participants, eventually increasing transaction costs.¹²⁴

The Commission believes that the Proposed Rule Change was designed to recognize and account for the different liquidity needs presented by the different Netting Members, while achieving an equitable and appropriate allocation of FICC’s liquidity need among all Netting Members. In order to provide qualifying liquid resources to enable FICC to settle the cash obligations of an Affiliated Family that would generate the largest aggregate payment obligation for FICC in the event of a default, as required by Rule 17Ad–22(e)(7) under the Exchange Act,¹²⁵ FICC would require each Netting Member to contribute to the CCLF in proportion to the liquidity needs that such Netting Member presented to FICC over a six-month look-back period. More specifically, each Netting Member would be required to attest that they have incorporated into their liquidity planning their respective Individual Regular Amount, based on the liquidity need that they individually presented to FICC, up to \$15 billion, during the six-month look-back period. In addition, any Netting Member that presented a liquidity need greater than \$15 billion during the six-month look-back period also would be required to attest that they have incorporated into their liquidity planning an Individual Supplemental Amount, in proportion to the individual liquidity need that the Netting Member presented above \$15 billion.

The Commission understands that the allocation and impact of the costs of complying with the CCLF would depend in part on each Netting Member’s specific business activity and that some firms can fulfill CCLF obligations at lower cost than others. As a result, establishing a liquidity facility

Requirement”). 17 CFR 240.17Ad–22(e)(7)(i). Meanwhile, Rule 17Ad–22(e)(7)(ii) requires a covered clearing agency, such as FICC, to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i), including the Cover 1 Requirement, in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members. 17 CFR 240.17Ad–22(e)(7)(ii).

¹²⁴ See Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70870 (October 13, 2016) (“CCA Standards Adopting Release”).

¹²⁵ 17 CFR 240.17Ad–22(e)(7).

¹⁰⁸ Ronin Letter I at 5; Ronin Letter II at 3; Ronin Letter III at 2.

¹⁰⁹ Ronin Letter II at 3.

¹¹⁰ Ronin Letter I at 5; Ronin Letter III at 2; Ronin Letter IV at 1, 6–7.

¹¹¹ Ronin Letter II at 3.

¹¹² See ICBC Letter I at 6; ICBC Letter II at 4; ICBC Letter III at 3–4.

¹¹³ Nasdaq Letter at 3.

¹¹⁴ *Id.*

¹¹⁵ See ICBC Letter I at 6; ICBC Letter III at 3–4.

¹¹⁶ *Id.*

¹¹⁷ FICC Letter IV at 6.

for FICC could impose a competitive burden on certain groups of Netting Members that stand to incur higher relative costs because of the design of the facility or the Netting Members' business choices. However, as discussed below, the Commission believes that any competitive burden imposed by the CCLF would be necessary or appropriate to further the purposes of the Exchange Act.¹²⁶

ICBC suggests that the CCLF is not necessary to mitigate FICC's liquidity risk because FICC's current "time proven" risk models are sufficient to address such risk.¹²⁷ Similarly, Ronin claims that smaller members have presented "no liquidity risk to FICC"¹²⁸ because, for the period of March 31, 2016 to March 31, 2017, the peak liquidity need of 53 of the 103 GSD Netting Members did not exceed the amount of cash in the GSD clearing fund.¹²⁹

Moreover, both Ronin and ICBC suggest that the burdens on competition imposed by the proposal are unnecessary due to characteristics of the government securities market and the risk profile of U.S. government securities. They suggest that the scenario the CCLF is intended to address (*i.e.*, an inability to access liquidity via the U.S. government securities repo market) is implausible¹³⁰ and that repo transactions in U.S. government securities should be exempted from FICC's liquidity requirements because they are a "flight to quality asset."¹³¹ Additionally, Ronin argues that FICC only proposed the CCLF to harmonize the GSD Rulebook with the MBSD Rulebook, despite the different risk profiles of the underlying products, and states that it does not believe that treasuries and mortgage-backed securities should share the same liquidity plan.¹³² Ronin suggests that FICC's liquidity plan should instead follow the model of NSCC's Supplemental Liquidity Deposits ("SLD") liquidity plan.¹³³ Finally,

Ronin suggests that if FICC were truly interested in mitigating liquidity risk, instead of the CCLF, FICC would place a hard cap on the maximum liquidity exposure allowable for each Netting Member.¹³⁴

In response to Ronin's assertion that smaller Netting Members do not present liquidity risk to FICC, FICC argues that all Netting Members present liquidity risk, which justifies a mutualized liquidity program like the CCLF.¹³⁵ FICC further argues that although the peak liquidity need of 53 of the 103 GSD Netting Members did not exceed the amount of cash in the GSD clearing fund, there were approximately 50 Netting Members whose peak liquidity needs did exceed the amount of cash in the clearing fund, and a failure of one such Netting Member could require FICC to access additional liquidity tools.¹³⁶ Because all Netting Members present liquidity risk, FICC argues that a mutualized liquidity pool, funded by each Netting Member in an amount relative to the liquidity risk each Netting Member presents to FICC, is warranted.¹³⁷

FICC disagrees with the comments from Ronin and ICBC suggesting that the market conditions that would trigger a CCLF Event are not plausible.¹³⁸ Whereas Ronin and ICBC note that the government securities markets functioned well during the 2008 crisis and its aftermath, FICC responds by highlighting several extraordinary actions taken by the Board of Governors of the Federal Reserve System ("Federal Reserve") to support the government securities markets at that time, such as: (1) Establishing the Term Auction Facility, Primary Dealer Credit Facility, Term Securities Lending Facility, and bilateral currency swap agreements with several foreign central banks; (2) providing liquidity directly to borrowers and investors in key credit markets; (3) expanding its open market operations, lowering longer-term interest rates; and (4) purchasing longer-term securities.¹³⁹ FICC argues that many of the above-referenced actions may not be available

to the Federal Reserve in a future crisis; therefore, FICC cannot assume that such actions would be available, sufficient, and/or timely in ensuring that FICC would be able to meet its liquidity requirements.¹⁴⁰

In response to Ronin's initial argument that FICC should follow the model of NSCC's SLD liquidity plan instead of the CCLF, FICC explains that the CCLF is the preferred liquidity plan for FICC's purposes by highlighting an important distinction between the two liquidity plans.¹⁴¹ SLD requires mandated cash deposits from members during the normal course of business to meet NSCC's liquidity needs for both historical and future liquidity exposure, whereas the CCLF would allow FICC to access Netting Member financing on a contingent basis only.¹⁴² Thus, the CCLF would obviate the need for Netting Members to pre-fund their CCLF requirements (*i.e.*, Netting Members would only need to attest that their liquidity plans enable them to meet CCLF obligations during a CCLF Event), reducing the impact on Netting Members' balance sheets relative to the alternative of a pre-funded liquidity requirement.¹⁴³ Ronin counter-argues that non-bank Netting Members would indeed be required to "pre-fund" their CCLF obligations by obtaining a committed line of credit or utilizing one of the other methods FICC recommended.¹⁴⁴

The Commission believes that ICBC's assertion that the CCLF is unnecessary because U.S. Treasuries are a "flight to quality asset"¹⁴⁵ ignores the fact that FICC is required to comply with Rule 17Ad-22(e)(7) under the Exchange Act.¹⁴⁶ That rule requires FICC to have policies and procedures for maintaining sufficient qualifying liquid resources to effect same-day settlement of payment obligations in the event of a default of the participant family with the largest aggregate payment obligation in extreme but plausible market conditions.¹⁴⁷ Furthermore, the clearance and settlement of repo transactions in U.S. Treasuries are not exempted from FICC's obligations under the Exchange Act, or Rule 17Ad-22(e)(7) specifically, to manage its liquidity risk.¹⁴⁸ Thus,

¹²⁶ 15 U.S.C. 78q-1(b)(3)(I).

¹²⁷ ICBC Letter I at 3.

¹²⁸ Ronin Letter II at 2-3; Ronin Letter IV at 1, 7.

¹²⁹ Ronin Letter II at 3.

¹³⁰ Ronin Letter II at 4-5; Ronin Letter III at 4-6; Ronin Letter IV at 5-6; ICBC Letter I at 3; ICBC Letter II at 4; ICBC Letter III at 3.

¹³¹ ICBC Letter II at 2.

¹³² Ronin Letter III at 2.

¹³³ Ronin Letter I at 7; Ronin Letter II at 4; Ronin Letter IV at 6-7; *see* Notice of No Objection to Advance Notice Filing, as Modified by Amendment Nos. 1, 2, and 3, to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Securities Exchange Act Release No. 34-71000 (Dec. 5, 2013), 78 FR 75400 (Dec. 11, 2013) (SR-

NSCC-2013-802); Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3, to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Securities Exchange Act Release No. 34-70999 (Dec. 5, 2013), 78 FR 75413 (Dec. 11, 2013) (SR-NSCC-2013-02) (collectively, "SLD Rule").

¹³⁴ Ronin Letter II at 4.

¹³⁵ FICC Letter I at 6.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *See* FICC Letter II at 5-6; Ronin Letter II at 2, 4-5; ICBC Letter I at 1-3; ICBC Letter II at 1, 4; ICBC Letter III at 3-4; Ronin Letter IV at 5-6.

¹³⁹ FICC Letter II at 3.

¹⁴⁰ *Id.* at 5-6.

¹⁴¹ FICC Letter I at 5.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ Ronin Letter IV at 7.

¹⁴⁵ ICBC Letter II at 2.

¹⁴⁶ 17 CFR 240.17Ad-22(e)(7).

¹⁴⁷ *Id.*

¹⁴⁸ In adopting Rule 17Ad-22(e)(7) under the Exchange Act, the Commission noted the potential risks associated with U.S. Treasury securities, stating that, "given the quantity of [U.S. Treasury

FICC has an obligation to ensure that it has policies and procedures for maintaining sufficient qualifying liquid resources pursuant to Rule 17Ad-22(e)(7) at all times.¹⁴⁹ The CCLF would help FICC meet that obligation, as it is designed to provide FICC with sufficient qualifying liquid resources to meet its settlement obligations in the event of the default of the Netting Member that presents FICC with its largest liquidity need. In addition, the Commission finds that the scenario the CCLF is intended to address (*i.e.*, an inability to access liquidity via the U.S. government securities repo market) is plausible because plausible scenarios are not necessarily limited to only those events that have actually happened in the past, but could also include events that could potentially occur in the future, as also discussed in Section III.C., below, despite ICBC's and Ronin's assertions to the contrary.¹⁵⁰

Moreover, the "time proven" FICC risk models highlighted by ICBC¹⁵¹ are risk models that relate to credit and market risk, whereas the CCLF is designed to address liquidity risk—a separate category of risk. Similarly, in response to Ronin's claim that smaller Netting Members pose no liquidity risk to FICC¹⁵² because the cash component to the GSD clearing fund has been sufficient to cover the peak liquidity need of 53 of 103 GSD Netting Members over the given period,¹⁵³ the Commission notes that the GSD clearing fund is calculated and collected to address credit and market risk (*i.e.*, the risk that a Netting Member defaults on its financial obligations to FICC and the risk of losses to FICC in its liquidation of the defaulted Netting Member's trading portfolio arising from movements in market prices), not liquidity risk (*i.e.*, the risk that a Netting Member's default would prevent FICC from meeting its cash settlement obligations when due). Although the clearing fund could be used to help address FICC's liquidity needs, it is not designed to do so. Nor is it designed to address both FICC's liquidity needs and its exposure to credit and market risk

securities] financed by the largest individual dealers, fire-sale conditions could materialize if collateral is liquidated in a disorderly manner, which could prevent covered clearing agencies from meeting payment obligations." CCA Standards Adopting Release, 81 FR at 70872–73.

¹⁴⁹ *Id.*

¹⁵⁰ ICBC Letter I at 3; ICBC Letter II at 4; ICBC Letter III at 3; Ronin Letter II at 4–5; Ronin Letter III at 4–6; Ronin Letter IV at 5–6.

¹⁵¹ ICBC Letter I at 3.

¹⁵² Ronin Letter II at 2–3; Ronin Letter IV at 1, 7.

¹⁵³ Ronin Letter II at 3.

simultaneously.¹⁵⁴ In the event of a Netting Member default, which itself could deplete the relevant portion of the clearing fund, FICC's resultant liquidity needs could alone exceed the amount available in the GSD clearing fund. In addition, the composition of the clearing fund, including the cash component, varies over time in a manner not related to FICC's liquidity risk exposures.

Furthermore, the cash in FICC's clearing fund may not always be sufficient to cover the peak liquidity needs of smaller members, as suggested by Ronin.¹⁵⁵ As a central counterparty, FICC is predicated on mutualizing the risks presented by its membership. Because all Netting Members present liquidity risk to FICC, FICC has designed the proposal so that all Netting Members must contribute to the mutualized liquidity resource that is the CCLF. Only requiring larger Netting Members to contribute to the CCLF would allow, therefore, certain firms to derive the benefits of clearing without incurring the costs associated with mitigating the liquidity risk they present.¹⁵⁶ The Commission believes FICC appropriately sought to mitigate the relative burdens on Netting Members that present relatively less liquidity risk to FICC by only requiring them to contribute their allotted share of the Aggregate Regular Amount, which is allocated to all firms. Only firms presenting FICC with a liquidity risk greater than \$15 billion would be

¹⁵⁴ This design is consistent with Commission requirements for certain clearing agencies, such as FICC, that provide central counterparty services. Exchange Act Rule 17Ad-22(e)(4)(v) requires a covered clearing agency to "maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining the financial resources required under paragraphs (e)(4)(ii) and (iii) of this section, as applicable, in combined or separately maintained clearing or guaranty funds." 17 CFR 240.17Ad-22(e)(4)(v). See also GSD Rule 4, *supra*, note 10. FICC is a covered clearing agency because it has been designated systemically important by the Financial Stability Oversight Council. See 17 CFR 240.17Ad-22(a)(5).

¹⁵⁵ Ronin Letter II at 2–3; Ronin Letter IV at 1, 7.

¹⁵⁶ Based on FICC's public financial disclosures and information made available to the Commission in its capacity as FICC's supervisory authority, the Commission understands that, when comparing the average size of the cash component of the GSD clearing fund to the liquidity needs presented by Netting Members, it is possible for a Netting Member that would not be subject to the Individual Supplemental Amount under the proposal to present liquidity needs to FICC in amounts greater than the cash component of the GSD clearing fund. See FICC Annual Financial Statements for 2016 and 2015, available at <http://www.dtcc.com/-/media/Files/Downloads/legal/financials/2016/FICC-Annual-Financial-Statements-2016-and-2015.pdf>.

required to contribute to the Aggregate Supplemental Amount.

Ronin argues that FICC should not model this GSD CCLF proposal after the similar MBS rule because Ronin does not believe that treasuries and mortgage-backed securities should share the same liquidity plan.¹⁵⁷ However, the two liquidity plans are not identical. Because the community of members that participates in MBS is different from the community that participates in GSD, the two liquidity plans vary from each other in terms of how the particular risks and business models presented by those respective communities are treated.¹⁵⁸ And, given that both MBS and GSD clear mortgage-backed securities transactions, any similarities shared by the two plans are not unreasonable. Ultimately, the Commission does not believe that the similarity of certain aspects of the Proposed Rule Change to aspects of another existing liquidity plan in a separate service line of FICC, in and of itself, renders this proposal inconsistent with the Exchange Act.

Ronin suggests that the imposition of a hard cap on the maximum liquidity exposure allowable for each Netting Member "would directly mitigate FICC's liquidity risk and preclude any need for a liquidity plan."¹⁵⁹ However, under Section 19(b)(2)(C), if a proposed rule is otherwise consistent with the requirements of the Exchange Act and the rule and regulations thereunder, the Commission must approve it unless the existence of alternatives identified by commenters renders it inconsistent with the Act.¹⁶⁰ Neither Ronin nor any other commenter has explained how a hard cap could be implemented by FICC in a way that would render the current proposal inconsistent with the Exchange Act. Nor does the Commission have a basis to conclude that it would.

Ronin states that, assuming a hard cap is "unpalatable," another alternative to the CCLF would be for FICC to model a liquidity plan based on NSCC's SLD requirements, which excludes smaller

¹⁵⁷ Ronin Letter III at 2.

¹⁵⁸ See Section 2a of Rule 17 of MBS Rules, available at www.dtcc.com/-/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf. In particular, Section 2a(c) of Rule 17 groups MBS members into bank and non-bank categories, whereas the Proposed Rule Change does not distinguish between bank or non-bank status but rather applies the Tier 1 and Tier 2 liquidity need-based categories described above. Similarly, Section 2a(b)(v) of Rule 17 describes certain obligations that apply to MBS bank members but not to MBS non-bank members, whereas the Proposed Rule Change does not include a similar feature based on Netting Member status as a bank or non-bank.

¹⁵⁹ Ronin Letter II at 4.

¹⁶⁰ 15 U.S.C. 78s(b)(2)(C).

netting members.¹⁶¹ SLD operates in a manner whereby NSCC collects mandated cash deposits from its members during the normal course of business of an options expiry period¹⁶² to meet NSCC's liquidity needs during, and only during, that period.¹⁶³ In contrast, the CCLF would allow FICC to access Netting Member financing on a contingent basis, which means that Netting Members would not be required to provide FICC with pre-funded resources to meet their potential future CCLF obligations, as suggested by Ronin.¹⁶⁴ Moreover, the CCLF is designed to address FICC's liquidity needs at all times, not just during discrete, monthly periods.

In light of these differences, the Commission agrees with FICC that the CCLF represents a reasonable method of ensuring that FICC can meet its liquidity obligations, and that the possibility of a hard cap or an SLD-modeled alternative does not render CCLF inconsistent with the Exchange Act.¹⁶⁵ Moreover, CCLF, like SLD, is designed to place the largest funding obligations on members with the largest liquidity needs. Specifically, SLD applies to the NSCC Clearing Members that present NSCC with the largest liquidity need.¹⁶⁶ Although all FICC GSD Netting Members would have a CCLF obligation, the majority of the total CCLF obligation would be borne by the Netting Members that present the largest liquidity needs.¹⁶⁷

Although Ronin argues that in meeting their CCLF obligation, large Netting Members that have access to the Federal Reserve Discount Window could merely "footnote the liability at no cost" or simply state that they are "good for it,"¹⁶⁸ the ability of some Netting Members to potentially access the Federal Reserve Discount Window as a means of funding their CCLF obligations does not render the proposal

inconsistent with the Exchange Act. FICC has made its central counterparty services accessible to a large and diverse population of entities, including banks and registered broker-dealers. As such, each Netting Member satisfies the obligations of FICC membership (including financial risk management obligations) and accesses the benefits of central clearing subject to its own specific business model and regulatory framework, which can include various means of access to funding. Consistent with this general principle, the Proposed Rule Change does not prescribe a specific means by which any one Netting Member or group of Netting Members must satisfy their CCLF obligation. Rather, the proposal provides flexibility to account for FICC's diverse membership, enabling Netting Members to apply a funding mechanism that fits their specific business needs and regulatory framework.

Ronin and ICBC also describe several concerns that they believe would result from the proposal's impact on competition. ICBC argues that the proposal could force smaller Netting Members to exit the clearing business or terminate their membership with FICC due to the cost of CCLF funding obligations, thereby: (i) Inhibiting competition; (ii) increasing market concentration; (iii) increasing FICC's credit exposure to its largest participant families; and (iv) driving smaller Netting Members to clear transactions bilaterally instead of through a central counterparty.¹⁶⁹ Similarly, Nasdaq suggests that the costs associated with the CCLF would increase the cost of FICC membership, which may have an effect on the "ecosystem" of the U.S. Treasury market.¹⁷⁰

In response to Ronin's concerns that the CCLF could cause a reduction in the population of Netting Members clearing through FICC, decreasing competition and concentration risk, FICC states that: (i) It does not wish to force any Netting Members to clear through larger institutions or exit the business as a result of the Proposed Rule Change;¹⁷¹ and (ii) Ronin merely asserts that such negative results "may or could" happen, without providing substantive support for those concerns.¹⁷² FICC argues that the proposal includes provisions that

will assist Netting Members in monitoring and managing their liquidity risk.¹⁷³ For example, FICC will provide each Netting Member with a daily liquidity funding report, and during the 12-month period before the CCLF is implemented, FICC will provide Netting Members with information (e.g., estimates of their Individual Total Amounts) that will allow Netting Members to assess the impact of their CCLF requirements and make any changes they deem necessary to lower their required contribution amounts.¹⁷⁴ However, both Ronin and ICBC argue that the liquidity funding report would be of little or no use to Netting Members because the report would not provide information on FICC's future Historical Cover 1 Liquidity Requirement.¹⁷⁵ FICC responds by clarifying that the liquidity funding report would indeed provide Netting Members with daily information, including information on FICC's Historical Cover 1 Liquidity Requirement, enabling Netting Members to monitor their liquidity exposure as well as FICC's regulatory liquidity requirements.¹⁷⁶

FICC also suggested a variety of methods for Netting Members to comply with their CCLF obligations at a reasonable cost, including: (i) Using a one-month term repo arrangement with an overnight reverse repo arrangement, which FICC estimates would cost an average of 4 basis points ("bps") (or \$40,000 per \$100 million of repo notional trade amount) annualized; (ii) obtaining other external liquidity arrangements; (iii) securing intercompany liquidity agreements; (iv) and increasing capital allocation for the contingent exposure.¹⁷⁷ Ronin argues that FICC underestimates the cost of using a one-month repo and overnight reverse repo, suggesting that the cost during the 2008 financial crisis averaged 37 bps, and questioning whether such arrangements would even be available during a future financial crisis.¹⁷⁸ Ultimately, FICC states that the CCLF is designed to mutualize GSD's liquidity risk, and that all Netting Members should support the potential liquidity risk created by their trading activity.¹⁷⁹ FICC believes that CCLF obligations are allocated appropriately, and Netting Members are in the best position to monitor and manage their liquidity risk

¹⁶¹ Ronin Letter I at 7; Ronin Letter II at 4; Ronin Letter IV at 6–7; see SLD Rule, *supra* note 133.

¹⁶² See SLD Rule, *supra* note 133.

¹⁶³ FICC Letter I at 5; Ronin Letter IV at 7. See also SLD Rule, *supra* note 133.

¹⁶⁴ See Notice, 82 FR at 14408.

¹⁶⁵ Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if the change is consistent with the requirements of the Exchange Act and the rule and regulations thereunder applicable to such organization. 15 U.S.C. 78s(b)(2)(C). Therefore, the Commission is required to approve the proposal unless the existence of alternatives identified by commenters renders the proposal inconsistent with the Exchange Act.

¹⁶⁶ See SLD Rule, *supra* note 133.

¹⁶⁷ For example, the Aggregate Supplemental Amount would have been approximately 80 percent of the total CCLF obligation, based on the six-month look-back period of July 1, 2016 to December 31, 2016. Notice, 82 FR at 14405.

¹⁶⁸ Ronin Letter I at 5; Ronin Letter III at 2; Ronin Letter IV at 1, 6–7.

¹⁶⁹ ICBC Letter I at 2–6; ICBC Letter III at 2–3. Like Ronin, the ICBC Letters I and III also argue that increased costs to Netting Members from the CCLF could inhibit competition by forcing smaller Netting Members to exit the clearing business or terminate their membership with FICC. ICBC Letter I at 2–4; ICBC Letter III at 3.

¹⁷⁰ See Nasdaq Letter at 2–3.

¹⁷¹ FICC Letter I at 7.

¹⁷² FICC Letter II at 6.

¹⁷³ *Id.*; Notice, 82 FR at 14407–09.

¹⁷⁴ Notice, 82 FR at 14407–09.

¹⁷⁵ Ronin Letter IV at 4–5; ICBC Letter III at 3.

¹⁷⁶ FICC Letter II at 4.

¹⁷⁷ FICC Letter II at 2–3.

¹⁷⁸ Ronin Letter IV at 2–4.

¹⁷⁹ FICC Letter II at 6.

in a manner that would not cause them to exit FICC or the business.¹⁸⁰

Ronin and ICBC further argue that the possibility of a reduced Netting Member population resulting from the possible costs associated with complying with the proposal could, in turn, lead to larger problems, such as: (i) Increasing the size of FICC's exposure to those Netting Members that generate the largest liquidity needs for FICC (because some of the departed Netting Members could become customers of, and clear their transactions through, such remaining Netting Members); (ii) increasing Netting Member concentration risk at FICC due to the reduced overall population of Netting Members following the implementation of the CCLF; and (iii) increasing systemic risk because of the increased exposure and concentration risks described above.¹⁸¹

In response to the assertion that the CCLF could increase systemic risk by forcing smaller Netting Members to clear their transactions through larger Netting Members or exit GSD, FICC argues that the proposal would actually reduce systemic risk.¹⁸² FICC states that it plays a critical role for the clearance

and settlement of securities transactions in the U.S., and, in that role, it assumes risk by guaranteeing the settlement of the transactions it clears.¹⁸³ By providing FICC with committed liquidity to meet its settlement obligations to non-defaulting members during extreme market stress, FICC asserts that the CCLF would promote settlement finality to all Netting Members, regardless of size, and the safety and soundness of the securities settlement system, thereby reducing systemic risk.¹⁸⁴

ICBC argues that the CCLF could cause FICC members to reduce their balance sheets devoted to the U.S. government securities markets, which would have broad negative effects on markets and taxpayers.¹⁸⁵ ICBC further argues that the CCLF could cause traders with hedged positions to reduce market activity, which could lead to reduced liquidity, inefficient pricing, and an increased likelihood of disruptions in the U.S. government securities markets.¹⁸⁶ ICBC raises an additional concern that the CCLF could result in FICC's refusal to clear certain trades, thereby increasing the burden on The Bank of New York Mellon (hereinafter, "BONY" as referred to by ICBC), the only private bank that clears a large portion of U.S. government securities.¹⁸⁷ Separately, ICBC questions whether the proposal is operationally feasible because it does not consider possible limitations that may manifest due to certain internal risk and operational requirements that BONY could apply in its role as clearing bank for FICC, as well as the systemic risks that may potentially result from such operational limitations.¹⁸⁸ Finally, ICBC argues that the CCLF would effectively drain liquidity from other markets by requiring more liquidity to be available to FICC than is necessary.¹⁸⁹

In response to comments that the CCLF would cause a material negative effect on the government securities markets and would drain liquidity from the limited amount of liquidity available in the market, FICC reiterates that the term repo costs and other suggested actions to reduce peak liquidity exposure would enable Netting Members to comply with CCLF obligations at a reasonable cost, with no material negative effects on the broader government securities market.¹⁹⁰

Ronin argues that the CCLF would impose an unfair burden by forcing smaller Netting Members to subsidize the "outsized liquidity risks" posed by the largest Netting Members, and that the proposal would do nothing to discourage an increase in FICC's Historical Cover 1 Liquidity Requirement.¹⁹¹ Similarly, Ronin argues that CCLF is solely designed to protect FICC from the liquidity needs presented by global systemically important banks, and not smaller Netting Members.¹⁹²

FICC disagrees with the commenters' assertions that the CCLF would require smaller Netting Members to subsidize the "outsized liquidity risks" posed by the largest Netting Members (*i.e.*, global systemically important banks), and that the proposal would do nothing to discourage an increase in FICC's Historical Cover 1 Liquidity Requirement. FICC argues that the CCLF is appropriately designed so that: (1) Each Netting Member's CCLF requirement would be a function of the liquidity risk that the Netting Member's trading activity presents to FICC; (2) citing supporting data, the allocation of CCLF requirements to each Netting Member would be a fraction of the Netting Member's peak liquidity exposure that it presents to FICC; and (3) Netting Members that generate higher liquidity needs would be allocated higher CCLF requirements, thus minimizing the burden on smaller Netting Members.¹⁹³ Additionally, FICC argues that bank capital requirements force banks to maintain a minimum ratio of capital to assets based on the underlying risk exposure of those assets.¹⁹⁴ Thus, large bank Netting Members with high CCLF requirements will have an incentive to limit their liquidity needs because they would be required to hold capital for their contingent exposure.¹⁹⁵

¹⁸⁰ FICC Letter I at 7.

¹⁸¹ ICBC Letter I at 2, 6; ICBC Letter II at 2–3; ICBC Letter IV at 3–4; Ronin Letter I at 1–9; Ronin Letter II at 1–5. In addition to the commenters' arguments regarding competition, Ronin also argued that a separate FICC proposal to expand FICC's Sponsored Membership program (Securities Exchange Act Release No. 80563 (May 1, 2017), 82 FR 21284 (May 5, 2017) (SR-FICC-2017-003)) could increase FICC's Historical Cover 1 Liquidity Requirement, and thereby "force smaller Netting Members to subsidize an increasing [CCLF] liquidity requirement." Ronin Letter I at 6. As stated in FICC Letter I, FICC responded to Ronin's concerns regarding the expansion of the Sponsored Membership program in a separate response letter as part of the notice and comment for that proposal. FICC Letter I at 9. See letter from Murray Pozmanter, Managing Director, Head of Clearing Agency Services, FICC, dated April 17, 2017, to Robert W. Errett, Deputy Secretary, Commission, available at <https://www.sec.gov/comments/sr-ficc-2017-003/ficc2017003.htm>. In that letter, FICC stated its belief that it would be unlikely for Sponsored Member activity to increase FICC's Historical Cover 1 Liquidity Requirement because the Sponsored Membership program is generally used to facilitate short-term cash investments. *Id.* at 4. Moreover, the two-tiered CCLF proposal means that only Netting Members with liquidity needs beyond \$15 billion would be required to contribute to an increased Historical Cover 1 Liquidity Requirement (*i.e.*, only such larger Netting Members would be subject to Individual Supplemental Amounts). *Id.* at 4–5. The Commission approved FICC's proposal to expand its Sponsored Membership program on May 1, 2017. See Securities Exchange Act Release No. 80563 (May 1, 2017), 82 FR 21284 (May 5, 2017) (SR-FICC-2017-003). In that approval order, the Commission stated that while Sponsored Members would not be required to contribute to the CCLF, those responsibilities would be borne by the relevant Sponsoring Member. *Id.* at 21286.

¹⁸² FICC Letter I at 7–8.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ ICBC Letter I at 3; ICBC Letter III at 4.

¹⁸⁶ ICBC Letter I at 4; ICBC Letter III at 3.

¹⁸⁷ ICBC Letter I at 2, 5; ICBC Letter II at 3.

¹⁸⁸ ICBC Letter II at 2–4. The Commission understands ICBC's reference to BONY as FICC's clearing bank to mean BONY's role in providing both the cash lender and the cash borrower with certain operational, custodial, collateral valuation, and other services to facilitate the repo transactions. For example, BONY may facilitate and record the exchange of cash and securities on a book-entry basis for each of the counterparties to the repo transaction, as well as make the collection and transfer of collateral that may be required under the terms of the repo transaction. See Federal Reserve Bank of New York, Tri-Party Repo Infrastructure Reform, https://www.newyorkfed.org/medialibrary/media/banking/nyfrb_triparty_whitepaper.pdf (last visited November 10, 2017).

¹⁸⁹ ICBC Letter I at 5; ICBC Letter III at 2; see also Ronin Letter II at 4.

¹⁹⁰ FICC Letter II at 4–5.

¹⁹¹ Ronin Letter I at 2; Ronin Letter II at 2–3; Ronin Letter III at 6; Ronin Letter IV at 1, 7.

¹⁹² Ronin Letter I at 2–3.

¹⁹³ FICC Letter I at 3–4.

¹⁹⁴ *Id.* at 5.

¹⁹⁵ *Id.*

In response to Ronin's concern that the CCLF could cause FICC's liquidity needs to grow, FICC states that in its outreach to Netting Members over the past two years, bilateral meetings with individual Netting Members, and testing designed to evaluate the impact that changes to a Netting Member's trading behavior could have on the Historical Cover 1 Liquidity Requirement, FICC has found opportunities for Netting Members to reduce their CCLF requirements and, as a result, decrease the Historical Cover 1 Liquidity Requirement.¹⁹⁶ Specifically, FICC states that during its test period, which spanned from December 1, 2016 to January 31, 2017, participating Netting Members voluntarily adjusted their settlement behavior and settlement patterns to identify opportunities to reduce their CCLF requirements.¹⁹⁷ According to FICC, the test resulted in an approximate \$5 billion reduction in GSD's peak Historical Cover 1 Liquidity Requirement, highlighting that growth of the Historical Cover 1 Liquidity Requirement could be limited under the proposal.¹⁹⁸

Ronin and ICBC also argue that the proposal does not prescribe uniform compliance guidelines.¹⁹⁹ Ronin adds that the proposal is discriminatory because some Netting Members are subject to different regulatory authorities that may take opposing positions on the permissibility of various CCLF compliance methods.²⁰⁰ Ronin and ICBC question whether Netting Members would have the ability to change their trading behavior to reduce their peak liquidity needs, and thereby, reduce their CCLF obligations, despite FICC's claims to the contrary.²⁰¹ Specifically, Ronin and ICBC question the utility of the daily liquidity report to assist in reducing their liquidity needs because the report would not provide information on the peak liquidity need generated by the Affiliated Family to which FICC has the largest exposure or future settlement obligations.²⁰² Similarly, Ronin and ICBC assert that the information in the report will have "limited value" and will "not [be] particularly useful" because the report will "tell member firms, after the fact, what its requirement is," but it will not "have

any forecasting value."²⁰³ Finally, Ronin and ICBC argue that changes to Netting Member trading behavior would involve burdensome costs,²⁰⁴ the proposal would effectively require Netting Members to "pre-fund" their CCLF requirements,²⁰⁵ and Netting Member liquidity needs would actually increase during a financial crisis, contrary to FICC's assertion.²⁰⁶

In response to comments that the proposal is unduly burdensome because it does not prescribe uniform compliance guidelines, FICC states that the proposal was specifically designed to not impose prescriptive rules regarding compliance methods in order to provide each Netting Member with the flexibility to consider methods that best suit its specific business, operating model, balance sheet, liquidity plan, and ownership structure.²⁰⁷ In addition, as mentioned above, FICC has suggested a variety of methods for Netting Members to comply with their CCLF obligations at a reasonable cost, including using a one-month term repo arrangement, obtaining other external liquidity arrangements, securing intercompany liquidity agreements, and increasing capital allocation for the contingent exposure.²⁰⁸

After carefully considering the Proposed Rule Change and all comments received, the Commission finds that any aforementioned burden imposed by the proposed CCLF are necessary or appropriate in furtherance of the purposes of the Exchange Act. First, while the Commission acknowledges that the proposal may result in costs to Netting Members and other market participants, the proposal is designed to help ensure that FICC has sufficient qualifying liquid resources to cover the peak cash settlement obligations of the family of affiliated Netting Members that would generate the highest liquidity need for FICC in extreme but plausible market conditions, as required by Rule 17Ad-22(e)(7) under the Exchange Act, as discussed below.²⁰⁹

²⁰³ See ICBC Letter III at 3; Ronin Letter III at 2-3.

²⁰⁴ ICBC Letter III at 2-3.

²⁰⁵ Ronin Letter IV at 7.

²⁰⁶ *Id.* at 5.

²⁰⁷ FICC Letter II at 2-3.

²⁰⁸ *Id.*

²⁰⁹ 17 CFR 240.17Ad-22(e)(7). In adopting Rule 17Ad-22(e)(7)(i) under the Exchange Act, the Commission acknowledged in the CCA Standards Adopting Release that, regardless of whether CCAs choose to gather liquidity directly from members (e.g., via a mechanism such as the CCLF) or instead choose to rely on third-party arrangements, the costs of liquidity may be passed on to other market participants, eventually increasing transaction costs. CCA Standards Adopting Release, 81 FR at

Second, the CCLF would allocate FICC's Historical Cover 1 Liquidity Requirement in a manner that is efficient in the sense that the CCLF allocation mechanism varies Netting Members' liquidity obligations as a function of the varying magnitudes of liquidity demands that Netting Members present to FICC. More specifically, under the proposal, each Netting Member would have a responsibility towards the Aggregate Regular Amount (*i.e.*, the first \$15 billion of the Aggregate Total Amount) in proportion to the respective liquidity needs that they presented over the past six months, as described above. The remainder of the Aggregate Total Amount would be allocated only to those Netting Members that presented liquidity needs above \$15 billion,²¹⁰ using a tiered approach that requires greater CCLF commitments from Netting Members that have historically presented greater liquidity needs. The Commission believes these features of the proposal address concerns that the CCLF would force smaller Netting Members to subsidize the "outsized liquidity risks" posed by the largest Netting Members. Additionally, by placing higher CCLF obligations on Netting Members that present greater liquidity needs, the proposal also addresses the concerns that the CCLF does nothing to limit the growth of FICC's liquidity requirements.

Third, FICC has designed the proposal to help enable all Netting Members to manage their commitments under the CCLF. As described above, FICC would provide each Netting Member with a daily report of: (1) The Netting Member's Individual Total Amount, Individual Regular Amount and, if applicable, its Individual Supplemental Amount; (2) FICC's Aggregate Total Amount, Aggregate Regular Amount, and Aggregate Supplemental Amount; and (3) FICC's regulatory liquidity requirements as of the prior business day. Although Ronin and ICBC dispute the usefulness of the report,²¹¹ the Commission understands that, generally, Netting Member's CCLF obligations would not be adjusted daily, but rather every six months, based on

70870. However, compliance with Rule 17Ad-22(e)(7)(i) may reduce the procyclicality of the CCA's liquidity demands, which may reduce costs to market participants in certain situations. *Id.* Accordingly, while the CCLF would impose costs on Netting Members, it does not render the proposal inconsistent with Rule 17Ad-22(e)(7)(i), or with the Exchange Act.

²¹⁰ As noted above, from 2015 to 2016, FICC observed that 85 percent of Netting Members had liquidity needs of \$15 billion or less. Notice, 82 FR at 14404.

²¹¹ See ICBC Letter III at 3; Ronin Letter III at 2-3.

¹⁹⁶ *Id.* at 8-9.

¹⁹⁷ *Id.* at 9-10.

¹⁹⁸ *Id.*

¹⁹⁹ ICBC Letter III at 1; Ronin Letter III at 1; Ronin Letter IV at 2, 4, 6-7.

²⁰⁰ Ronin Letter III at 2.

²⁰¹ *Id.* at 3; ICBC Letter III at 2-3.

²⁰² Ronin Letter III at 2-3; Ronin Letter IV at 5; ICBC Letter III at 3.

the Netting Member's peak liquidity exposure that it presents to GSD and GSD's peak liquidity needs during the prior six-month period. Given that the liquidity report would provide this information to Netting Members each day, the Commission, believes that the liquidity report is designed to help Netting Members anticipate and manage their CCLF commitments before a Netting Member's CCLF obligation would change at the start of the next six-month period.

Additionally, the Commission believes that Netting Members would have the flexibility, if necessary, to consider ways in which they could adjust their trading behavior to take into account the ability to reduce their peak liquidity needs, and thereby, reduce their CCLF obligations.²¹² As noted by FICC, because CCLF contributions would be a function of each Netting Member's peak liquidity exposure to FICC, each Netting Member could reduce its CCLF obligations by altering its trading activity.²¹³ For example, as noted by FICC, Netting Members looking to reduce their peak liquidity exposures could stagger the maturities of their repo trades by entering into term repos or modify their settlement activity via term repos or forward starting repos during peak exposure days that significantly increase their liquidity exposure to FICC.²¹⁴ While ICBC and Ronin express concern about the potential cost of engaging in such altered trading behavior, as noted above, in adopting amendments to Rule 17Ad-22 under the Exchange Act, the Commission acknowledged that there would be costs associated with gathering the liquidity needed to comply with the Cover 1 Requirement of Rule 17Ad-22(e)(7), either directly from members or through third-party arrangements, and that such costs may be passed on to other market participants, eventually increasing transaction costs.²¹⁵ The Commission concluded that these costs were justified by the benefits related to liquidity risk management.²¹⁶ Here, although Netting Members may incur some costs in establishing the ability to meet their respective CCLF requirements, each Netting Member would retain flexibility in how they secure such resources.

Furthermore, regarding Ronin's argument that obtaining a line of credit or rolling a one-month term repo to

satisfy a CCLF obligation is, in effect, pre-funding the CCLF obligation,²¹⁷ the Commission disagrees. The proposal would not require Netting Members to hold or provide to FICC their CCLF contribution (*i.e.*, their Individual Total Amount) prior to a CCLF Event.²¹⁸ Rather, the proposal would require Netting Members to attest to their ability to meet their CCLF requirement should FICC declare a CCLF Event. While obtaining of a line of credit or maintaining a one-month term repo in order for a Netting Member to make such an attestation is not costless, it is not the equivalent of pre-funding the entire CCLF requirement.

In response to Ronin's and ICBC's contention that the attestation requirement is unduly burdensome because it does not prescribe uniform compliance guidelines,²¹⁹ FICC explained that the attestation requirement was designed to afford each Netting Member the flexibility to consider methods to meet its CCLF obligations in the manner that also best suits its specific business, operating, and regulatory model, as well as applicable balance sheet, liquidity plan, and ownership structure. As FICC suggests, there are various methods that a Netting Member might utilize to fulfill its CCLF requirement, including: (1) Accessing the repo agreement market to borrow funds through a one-month term repo arrangement; (2) obtaining other external liquidity arrangements; (3) securing intercompany liquidity agreements; and (4) increasing capital allocation for the contingent exposure.²²⁰ The Commission finds that these suggestions are consistent with the fact that FICC has made its central counterparty services accessible to a large and diverse population of entities, including banks and registered broker-dealers. As such, each Netting Member satisfies the obligations of FICC membership (including financial risk management obligations) and accesses the benefits of central clearing subject to its own specific business model and regulatory framework.

Nor is the Commission persuaded that the Proposed Rule Change is unfairly discriminatory because it does not prescribe uniform compliance guidelines. While Ronin is correct that some Netting Members are subject to different regulatory authorities, its

assertion that these authorities may have their own view as to how a Netting Member must account for its CCLF obligation is speculative.²²¹ Moreover, to the extent that this does happen, it is not clear that it will have an unfairly discriminatory effect. Rather, given the different potential responses, the flexibility in the Proposed Rule Change seems reasonable and appropriate.

The Commission is also unconvinced by Ronin's argument against the feasibility of FICC's suggestion that smaller Netting Members could comply with CCLF obligations by using a one-month term repo along with an overnight reverse repo.²²² FICC estimates the cost of such a strategy at 4 bps annualized by calculating the spread between one-month repo and overnight repo between 2012 and 2017.²²³ FICC uses this amount to estimate the ongoing costs faced by Netting Members that only would be obligated to contribute to the Aggregate Regular Amount. Ronin disagreed with the estimates provided by FICC, suggesting that the sample period chosen by FICC was a period of low and stable rates and the quotes used by FICC to produce its estimate are indicative and are not necessarily actionable.²²⁴ Using the rates provided by FICC, Ronin demonstrated an average spread between the one-month repo rate and the overnight repo rate of approximately 9.5 bps, with a standard deviation of approximately 13 bps, over the twelve months ending on September 29, 2017.²²⁵ To show the impact of transactions costs on the costs of FICC's suggested strategy, particularly during periods of financial stress, Ronin calculated an average bid-ask spread of approximately 37 bps for one-month repo transactions during the period between September 16, 2008 and November 14, 2008.²²⁶

The Commission acknowledges that the costs of the repo financing strategy posed by FICC depends on certain macroeconomic environment and financial conditions, and that the difference between the bid price for securities to be repurchased in one-month and the ask price for securities to be repurchased overnight could be volatile. However, the costs of other compliance strategies that do not rely on repo markets would also depend on the prevailing macroeconomic and financial conditions present. As such, the

²¹⁷ Ronin Letter IV at 7.

²¹⁸ As Ronin notes, a Netting Member could pay for access to a committed line of credit to have sufficient resources to attest that it can meet its CCLF contribution requirement. Ronin Letter I at 5.

²¹⁹ ICBC Letter III at 1; Ronin Letter III at 1; Ronin Letter IV at 2, 4, 6-7.

²²⁰ See FICC Letter II at 3.

²²¹ Ronin Letter III at 2.

²²² Ronin Letter IV at 2-4.

²²³ FICC Letter II at 3.

²²⁴ Ronin Letter IV at 2-4.

²²⁵ *Id.*

²²⁶ *Id.*

²¹² Ronin Letter III at 3; ICBC Letter III at 2-3.

²¹³ See FICC Letter I at 3,7.

²¹⁴ See FICC Letter II at 4.

²¹⁵ CCA Standards Adopting Release, 81 FR at 70786, 70870.

²¹⁶ *Id.*

Commission believes that the concerns highlighted by Ronin for this purpose are not unique to smaller Netting Members, but instead are concerns that all Netting Members would consider in connection with any compliance strategy they choose. Furthermore, given FICC's large and diverse membership, Netting Members could access funding to satisfy CCLF obligations through various means depending on each Netting Member's specific business model and regulatory framework. Indeed, FICC has suggested several potential options.²²⁷ The differences in the estimated costs of one particular potential option do not necessarily imply that the burdens of the CCLF are not necessary or appropriate in furtherance of the purposes of the Act, or that such burdens disproportionately fall on some Netting Members and not others. Similarly, the Commission is unconvinced by Ronin's argument that CCLF obligations would be unduly burdensome because a one-month repo and overnight reverse repo arrangement might not be widely available during a financial crisis. Again, FICC did not suggest that financing option as the exclusive option for Netting Members; rather, it is as one of several suggested options for Netting Members to comply with CCLF obligations.²²⁸ In addition, and as discussed above, the Commission believes that the tiered structured of the CCLF, which requires greater CCLF commitments from Netting Members that have historically presented greater liquidity needs, is designed to help address concerns that the CCLF unduly burdens smaller Netting Members.

In addition, the concerns expressed by: (i) Ronin and ICBC regarding the potential for reductions in centrally cleared U.S. Treasury trading activity and barriers to entry for new Netting Members; and (ii) ICBC and Nasdaq suggesting that the Commission defer its decision on the Proposed Rule Change in order for detailed studies to be conducted on the CCLF and the U.S. Treasury market more broadly, as described above, are based upon a number of implicit but also specific assumptions about Netting Member behavior that the Commission finds unpersuasive, as detailed below.

1. Assumptions Regarding Market Participation

The magnitude of the stated concerns regarding potential reductions in GSD's Netting Member population, with resultant increases in liquidity demands

for FICC, concentration risk, and systemic risk are based upon an assumption regarding how existing Netting Members may participate in the cleared repo market following implementation of the CCLF. The concern that the most significant liquidity demands generated by particular Netting Members could increase because of the CCLF is based upon an assumption that departing Netting Members would choose to become customers of, and clear their repo transactions through, the remaining Netting Members that present the largest liquidity demands for FICC.

Notwithstanding this concern, given the multitude of factors (*e.g.*, capital requirements, balance-sheet restraints, cost of capital, business relations, etc.) that a departing Netting Member would consider in seeking to establish a clearing broker relationship with any remaining Netting Members, the Commission does not believe that the trading activity of departing Netting Members would necessarily be cleared through the remaining Netting Members that present the largest liquidity need. For example, it is conceivable that it would be less expensive for departing Netting Members to clear through smaller Netting Members because Netting Members might pass the costs associated with the Individual Supplemental Amount on to their customers, and larger Netting Members might incur higher costs associated with funding their Individual Supplemental Amount. Moreover, for FICC's Historical Cover 1 Liquidity Requirement to increase under the scenario contemplated by Ronin and ICBC, not only would a departed Netting Member need to clear through the remaining Netting Member that generated FICC's Historical Cover 1 Liquidity Requirement, but it also would need to have contributed to that Netting Member having generated that Historical Cover 1 Liquidity Requirement.

Even if the underlying assumption was supported, the extent to which increases in the largest liquidity demands for FICC would implicate systemic risk concerns would be mitigated by features of the CCLF itself: The amount of committed resources available under the CCLF is designed to support FICC's ability to meet liquidity obligations in the event of a default of the participant family that would generate the largest aggregate payment obligation.²²⁹ In other words, the amount of liquidity resources available to FICC under the CCLF would be

scaled to FICC's largest liquidity demand, so that even if there were increased concentration and higher liquidity demands, the CCLF would continue to mitigate liquidity risks associated with the default of the participant or participant family that presented the largest liquidity need.

2. Assumptions Regarding the Cost of Clearing

The stated concerns regarding incentives for market participants to choose not to centrally clear their repo transactions through FICC and, instead, execute and manage their repo activity in the bilateral market are based upon certain assumptions regarding how market participants would consider the relative costs and benefits of engaging in cleared repo transactions at FICC versus bilateral repo transactions. ICBC argues that moving to bilateral repo transactions would be somewhat less efficient than continuing to clear repo transactions at FICC, but that it would be materially less expensive.²³⁰ However, this conclusion assumes that market participants would be willing to forgo certain benefits of FICC's central clearing process (*e.g.*, centralized netting, reduction of exposures, and the elimination of the need to maintain multiple risk management and operational relationships with a multitude of counterparties), when moving to bilateral repo transactions, to avoid incurring the cost of committing to provide liquidity to FICC under the CCLF.²³¹ Notwithstanding the concern raised, the Commission believes that central clearing at FICC would remain an attractive option for firms, after considering the above-described benefits of central clearing, even if the CCLF were implemented.²³²

²³⁰ ICBC Letter I at 3.

²³¹ The Commission notes that registered clearing agencies have become an essential part of the infrastructure of the U.S. securities markets. CCA Standards Adopting Release, 81 FR at 70849. The Commission believes that central clearing generally benefits the markets in which it is available. *Id.*

²³² As discussed in Section III.C., below, the Commission finds that the proposal is consistent with the liquidity requirements of Rule 17Ad-22(e)(7) under the Exchange Act. In considering the benefits, costs, and effects on competition, efficiency, and capital formation, the Commission expressly acknowledged in the CCA Standards Adopting Release that a covered clearing agency ("CCA") might pass incremental costs associated with Rule 17Ad-22 compliance on to its members, which might cause certain members to choose to terminate their relationships with that CCA. CCA Standards Adopting Release, 81 FR at 70862, 65. The Commission nonetheless concluded that the costs were justified by the benefits relating to liquidity risk management. *Id.* at 70870. Even if CCLF costs drive certain Netting Members to clear their transactions bilaterally rather than through FICC, the Commission believes the proposal is

²²⁷ See FICC Letter II at 3.

²²⁸ See *id.*

²²⁹ FICC Letter I at 4.

3. Assumptions Regarding the Transfer of Risk

ICBC raises the concern that the CCLF could transfer risk from FICC to BONY, the only private bank that acts as a tri-party custodian to a large portion of U.S. government securities, if FICC chooses to limit its risk by refusing to clear trades following a default. However, as proposed, the CCLF does not contemplate the refusal to clear trades following the default of a Netting Member, nor does FICC impose trading limits on Netting Members. In addition, the concerns raised by ICBC regarding transferred risk to BONY and operational limitations that BONY might impose on its customers, respectively, are based upon the assumption that the proposal would encourage market participants to move their repo transactions away from central clearing at FICC to the bilateral repo market. As already discussed above in Section III.B.3, the Commission does not believe this assumption is supported.

4. Assumptions Regarding the Impact to U.S. Government Securities Markets

While the Commission acknowledges that the possible exit of traders that primarily hold hedged positions could potentially affect the liquidity of certain segments of the U.S. government securities markets, the argument that these impacts would necessarily result in inefficient pricing and an increased likelihood of disruption are not persuasive. While hedged positions in U.S. government securities may present only limited market risk to FICC, these positions nevertheless present liquidity demands. While the CCLF may raise the costs that certain market participants incur to hedge the market risks associated with providing liquidity, the Commission believes that these costs appropriately reflect the liquidity risks that these participants present to FICC, as the proposal is designed to be tailored to the liquidity risk presented, as described above; thus, it should not result in inefficient pricing, as a potential impact on pricing should appropriately reflect the relevant liquidity risks.

Finally, in response to ICBC and Nasdaq's request that the Commission defer its decision on the proposal until there are further studies on the CCLF²³³ and the broader U.S. Treasury market,²³⁴ the Commission believes

consistent with Rule 17Ad-22(e)(7) under the Exchange Act.

²³³ See ICBC Letter I at 6; ICBC Letter II at 4; ICBC Letter III at 3-4.

²³⁴ Nasdaq Letter at 3.

that, given the information and evidence already made available to the Commission in connection with this Proposed Rule Change, including responses to the request for comment in the OIP Extension, such studies are not necessary to make a finding that the Proposed Rule Change is consistent with the Exchange Act. First, in response to ICBC's comment that a review of the proposal should not be confined to the narrow question of whether the proposal would provide FICC with more liquidity,²³⁵ the Commission believes that it has not conducted such a narrow review in evaluating the proposal. To the contrary, as addressed throughout this Section III, the Commission has considered whether the proposal is consistent with the Exchange Act, including a review of (i) whether the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which FICC is responsible, and, in general, protect investors and the public interest, as required by Section 17A(b)(3)(F) of the Exchange Act;²³⁶ (ii) whether the proposal imposes a burden on competition that is not necessary or appropriate in furtherance of the Exchange Act, as required by Section 17A(b)(3)(I) of the Exchange Act;²³⁷ (iii) and whether the proposal is consistent with the rules and regulations under the Exchange Act, such as Rule 17Ad-22(e),²³⁸ as required by Section 19(b)(2)(C) of the Exchange Act.²³⁹ Second, with respect to the list of questions suggested by ICBC for further study regarding the broad, potential effects of the CCLF,²⁴⁰ those questions mirror the concerns raised throughout ICBC's three comment letters, which the Commission has considered and addressed in this Section III. Third, as early as September 18, 2013, FICC's parent company established a standing member-based advisory group, the Clearing Agency Liquidity Council ("CALC"), including both small and large Netting Members, as a forum to discuss liquidity-related matters.²⁴¹ FICC engaged with its members, via the CALC, regarding the CCLF proposal throughout its design and development process, considering such wide-ranging issues as U.S. Treasury market structure

²³⁵ See ICBC Letter I at 6; ICBC Letter III at 3-4.

²³⁶ 15 U.S.C. 78q-1(b)(3)(F).

²³⁷ 15 U.S.C. 78q-1(b)(3)(I).

²³⁸ 17 CFR 240.17Ad-22(e).

²³⁹ 15 U.S.C. 78s(b)(2)(C).

²⁴⁰ See ICBC Letter I at 6; ICBC Letter III at 3-4.

²⁴¹ FICC Letter I at 8.

dynamics, existing liquidity tools available in the market (and to FICC's parent company) to satisfy FICC's liquidity requirements, and potential alternative mechanisms such as the NSCC SLD and other liquidity plans.²⁴² Ultimately, the CALC preferred the CCLF to the other options considered.²⁴³ Fourth, FICC conducted bilateral outreach with Netting Members regarding the CCLF over the past two years, including the distribution of impact studies, a CCLF test-period with certain members, and meetings to discuss liquidity drivers.²⁴⁴ Fifth, the Commission believes that approving the Proposed Rule Change now is appropriate and will not act as an impediment to conducting the studies of clearing arrangements and incentives in the U.S. Treasury markets as suggested by Nasdaq in its comments. In its comments, Nasdaq stated that the Proposed Rule Change will impact, perhaps dramatically, the ecosystem that the U.S. Treasury Department has already singled out as needing further study and reform and therefore the Commission should consider deferring any ruling on the Proposed Rule Change.²⁴⁵ The kind of study Nasdaq requests is broad and beyond the scope of this Proposed Rule Change, and the Commission does not believe it is necessary to preclude clearing agencies from charging fees or imposing other requirements on their members in an effort to comply with rules to which they are currently subject, prior to conducting such a wide-ranging study. Finally, Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder.²⁴⁶ The Commission believes, for the reasons discussed above and below, that the current record is sufficient for the Commission to make such a finding, and the absence of further studies does not render the Proposed Rule Change inconsistent with the Exchange Act.

For all of the above reasons, Commission believes that the Proposed Rule Change is consistent with Section 17A(b)(3)(I) of the Exchange Act, as the proposal would not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ FICC Letter I at 9.

²⁴⁵ See Nasdaq Letter.

C. Exchange Act Rule 17Ad-22(e)(7)

The Commission believes that the proposed changes associated with the CCLF are consistent with the requirements of Rule 17Ad-22(e)(7) under the Exchange Act, which requires FICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by FICC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.²⁴⁷

Specifically, Rule 17Ad-22(e)(7)(i) under the Exchange Act requires policies and procedures for maintaining sufficient liquid resources to effect same-day settlement of payment obligations in the event of a default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.²⁴⁸ As described above, the CCLF would be a rules-based, committed repo facility, designed to provide FICC with a liquidity resource in the event that FICC's other liquidity resources prove insufficient during a Netting Member default. Moreover, the CCLF would be sized to meet GSD's peak liquidity need during the prior six months, plus an additional Liquidity Buffer.

ICBC and Ronin argue, as summarized above, that FICC's current risk models are "time proven" and the scenario the CCLF is intended to address (*i.e.*, an inability to access liquidity via the U.S. government securities repo market) is implausible.²⁴⁹ To support this position, ICBC and Ronin cite to the 2008 financial crisis, in which the repo market continued to function.²⁵⁰ Ronin also claims that smaller Netting Members have presented "no liquidity risk to FICC"²⁵¹ because, for the period of March 31, 2016 to March 31, 2017, the peak liquidity need of 53 of the 103 GSD Netting Members did not exceed

the amount of cash in the GSD clearing fund.²⁵²

In response, FICC states that the Federal Reserve took several extraordinary actions at that time to support the government securities markets, such as: (1) Establishing the Term Auction Facility, Primary Dealer Credit Facility, Term Securities Lending Facility, and bilateral currency swap agreements with several foreign central banks; (2) providing liquidity directly to borrowers and investors in key credit markets; (3) expanding its open market operations, lowering longer-term interest rates; and (4) purchasing longer-term securities.²⁵³ FICC points out that many of the above-referenced actions would not be available to the Federal Reserve in a future crisis; therefore, FICC cannot assume that such actions would be available, sufficient, and/or timely in ensuring that FICC would be able to meet its liquidity requirements.²⁵⁴ Ronin counters FICC's argument by stating that the actions taken by the Federal Reserve after the 2008 crisis dealt with supporting the credit markets, which have little to do with U.S. Treasuries because they are not a credit product.

Without taking a position on the performance of the U.S. Treasury markets during the 2008 financial crisis as a result of action taken or not taken by the Federal Reserve, the Commission believes that Ronin's argument fails to consider that extreme but plausible scenarios are not necessarily limited to only those events that have actually happened in the past, but could also include events that could potentially occur in the future. Moreover, the "time proven" FICC risk models highlighted by ICBC are risk models that relate to market risk (*i.e.*, the risk of losses in a Netting Member's trading portfolio arising from movements in market prices), whereas the CCLF is designed to address liquidity risk (*i.e.*, the risk that a Netting Member's default would prevent FICC from meeting its cash settlement obligations when they are due)—a separate category of risk that requires its own mitigation measures. Similarly, in response to Ronin's claim that smaller members have presented "no liquidity risk to FICC"²⁵⁵ because the cash component to the GSD clearing fund has been sufficient to cover the peak liquidity need of 53 of 103 GSD Netting Members over the given period,²⁵⁶ the GSD clearing fund is

calculated and collected to address market risk, not liquidity risk, as discussed above. Also, reliance on the clearing fund exclusively to mitigate all of FICC's liquidity risk, including such risk presented by small Netting Members, could prove inadequate because the composition of the clearing fund, including the cash component, varies over time.

For these reasons, the Commission believes that the proposal is reasonably designed to help FICC effectively measure, monitor, and manage liquidity risk by helping FICC maintain sufficient qualifying liquid resources to settle the cash obligations of the GSD participant family that would generate the largest liquidity need in extreme but plausible market conditions, consistent with Rule 17Ad-22(e)(7)(i) under the Exchange Act.

Rule 17Ad-22(e)(7)(ii) under the Exchange Act requires policies and procedures for holding qualifying liquid resources sufficient to satisfy payment obligations owed to clearing members.²⁵⁷ Rule 17Ad-22(a)(14) under the Exchange Act defines "qualifying liquid resources" to include, among other things, committed repo agreements without material adverse change provisions, that are readily available and convertible into cash.²⁵⁸ As described above, the proposed CCLF is designed to provide FICC with a committed repo facility to help ensure that FICC has sufficient, readily available liquid resources to meet the cash settlement obligations of the family of affiliated Netting Members generating the largest liquidity need. Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(ii) under the Exchange Act.²⁵⁹

Rule 17Ad-22(e)(7)(iv) under the Exchange Act requires policies and procedures for undertaking due diligence to confirm that FICC has a reasonable basis to believe each of its liquidity providers, whether or not such liquidity provider is a clearing member, has: (a) Sufficient information to understand and manage the liquidity provider's liquidity risks; and (b) the capacity to perform as required under

²⁴⁷ 17 CFR 240.17Ad-22(e)(7). Although the commenters discuss the proposal in the context of Rule 17Ad-22(b)(3), the Commission has analyzed the proposal under Rule 17Ad-22(e)(7), which includes specific requirements related to the management of liquidity risk. As noted in the CCA Standards Adopting Release, Rule 17Ad-22(e) includes requirements intended to supplement the more general requirements in Rule 17Ad-22(b). See CCA Standards Adopting Release, 81 FR at 70786.

²⁴⁸ 17 CFR 240.17Ad-22(e)(7)(i).

²⁴⁹ ICBC Letter I at 3; ICBC Letter II at 4; ICBC Letter III at 3; Ronin Letter II at 4-5; Ronin Letter III at 4-6; Ronin Letter IV at 5-6.

²⁵⁰ ICBC Letter I at 2-3; Ronin Letter III at 5; Ronin Letter IV at 5-6.

²⁵¹ Ronin Letter II at 2-3; Ronin Letter IV at 1, 7.

²⁵² Ronin Letter II at 3.

²⁵³ FICC Letter II at 3.

²⁵⁴ *Id.* at 5-6.

²⁵⁵ *Id.* at 2-3; Ronin Letter IV at 1, 7.

²⁵⁶ Ronin Letter II at 5-6.

²⁵⁷ 17 CFR 240.17Ad-22(e)(7)(ii).

²⁵⁸ 17 CFR 240.17Ad-22(a)(14).

²⁵⁹ Although Ronin and ICBC raised concerns regarding the cost of complying with the CCLF, the Commission, in adopting Rule 17Ad-22(e)(7)(ii), acknowledged that CCAs could comply with Rule 17Ad-22(e)(7)(ii) by requiring their members to act as counterparties in repurchase agreements, with members bearing the associated costs. See Ronin Letter I at 2; Ronin Letter II at 1-5; ICBC Letter I at 2-4; CCA Standards Adopting Release, 81 FR at 70871.

its commitments to provide liquidity.²⁶⁰ As described above in Section II.D., FICC would require GSD Netting Members to attest that they have accounted for their potential Individual Total Amount, and FICC has had discussions with Netting Members regarding ways Netting Members, regardless of size or access to bank affiliates, can meet this requirement.²⁶¹ Moreover, FICC proposes to conduct due diligence on a quarterly basis to assess each Netting Member's ability to meet its Individual Total Amount.²⁶² According to FICC, this due diligence would include a review of all information that the Netting Member provided FICC in connection with its ongoing reporting requirements, as well as a review of other publicly available information.²⁶³

Ronin's assertion that certain Netting Members could merely submit an attestation declaring that they "are good for" their CCLF contribution²⁶⁴ fails to account for the fact that, as described above, FICC would conduct its own due diligence to verify the support for each Netting Member's attestation. Specifically, on a quarterly basis, FICC would review all of the information that Netting Members provide in connection with their ongoing reporting obligations pursuant to the GSD Rules, and it would review other publicly available information.²⁶⁵ Therefore, the Commission believes that the proposal is consistent with Rule 17Ad-22(e)(7)(iv) under the Exchange Act.

Finally, Rule 17Ad-22(e)(7)(v) under the Exchange Act requires policies and procedures for maintaining and testing with each liquidity provider, to the extent practicable, FICC's procedures and operational capacity for accessing its relevant liquid resources.²⁶⁶ As described above, under the proposal, FICC would test its operational procedures for invoking a CCLF Event and require Netting Members to participate in such tests.²⁶⁷ Therefore, the Commission believes that the

²⁶⁰ 17 CFR 240.17Ad-22(e)(7)(iv). As discussed in the CCA Standards Adopting Release, a key benefit of the due diligence provisions in Rules 17Ad-22(e)(7)(iv) and (v) is an increased level of assurance that liquidity providers would be able to supply liquidity on demand, while their costs include costs associated with new or updated policies and procedures, and with ongoing monitoring, compliance and testing of liquidity resources. CCA Standards Adopting Release, 81 FR at 70873.

²⁶¹ See FICC Letter I at 9.

²⁶² See Notice, 82 FR at 14407-08.

²⁶³ *Id.*

²⁶⁴ Ronin Letter I at 5.

²⁶⁵ See Notice, 82 FR at 14407-08.

²⁶⁶ 17 CFR 240.17Ad-22(e)(7)(v).

²⁶⁷ Notice, 82 FR at 14407-08.

proposal is consistent with Rule 17Ad-22(e)(7)(v) under the Exchange Act.

IV. Conclusion

Based on the foregoing, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and in particular with the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁶⁸ that proposed rule change SR-FICC-2017-002 be, and it hereby is, APPROVED as of the date of this order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶⁹

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-25145 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82088; File No. SR-CBOE-2017-068]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Describe Functionality of and Adopt Fees for a New Front-End Order Entry and Management Platform

November 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 2, 2017, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") 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 Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²⁶⁸ 15 U.S.C. 78s(b)(2).

²⁶⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to describe the functionality of and adopt fees for the use of the Silexx trading platform ("Silexx" or the "platform") in connection with the purchase of assets from Silexx Financial Systems, LLC (SFS).

The text of the proposed rule change is also available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to describe the functionality and adopt fees for the use of Silexx, a new front-end order entry and management platform. On the date of this filing, Cboe Silexx, LLC (a wholly owned subsidiary of Cboe Options' parent company, Cboe Global Markets, Inc.) ("Cboe Silexx") entered into a definitive asset purchase agreement with SFS pursuant to which Cboe Silexx agreed to purchase Silexx, a front-end, broker-neutral, multi-asset class order entry and management trading platform.

Silexx is an order entry and management trading platform for listed stocks and options that support both simple and complex orders.⁵ The platform is a software application that is installed locally on a user's desktop. The platform provides users with the capability to send option orders to U.S.

⁵ The platform also permits users to submit orders for commodity futures, commodity options and other non-security products to be sent to designated contract markets, futures commission merchants, introducing brokers or other applicable destinations of the users' choice.

options exchanges and stock orders to U.S. stock exchanges (and other trading centers⁶), and allows users to input parameters to control the size, timing and other variables of their trades.⁷ Silexx includes access to real-time options and stock market data, as well as access to certain historical data. The platform provides users with the ability to maintain an electronic audit trail and provide detailed trade reporting.⁸ Use of Silexx is completely optional.

Silexx is designed so that a user may enter orders into the platform to send to the executing broker (including Trading Permit Holders) of its choice with connectivity to the platform, which broker can then send orders to Cboe Options (if the broker-dealer is a Trading Permit Holder) or other U.S. exchanges (and trading centers) in accordance with the users' instructions.⁹ If a user sends an order

⁶ A "trading center," as provided under Rule 600(b)(78) of Regulation NMS, 17 CFR 242.600(b)(78), means a national securities exchange or national securities association that operates a self-regulatory organization trading facility, an alternative trading system, an exchange market-maker, an over-the-counter market-maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.

⁷ The platform also provides position and risk management capabilities. The risk management functionality allows users to, among other things, set pre-trade customizable risk controls. Users of these risk controls set the parameters for the controls (to the extent an executing broker sublicenses the platform to its customers (see below), the executing broker may set risk controls on behalf of its customers). Users have the option to instead use other third-party risk control software or technology. The Exchange notes that executing broker-dealers (including Trading Permit Holders) must ensure that any orders that come from the platform to their systems will be subject to all applicable pre-trade risk control requirements in accordance with Rule 15c3-5 of the Securities Exchange Act of 1934 (the "Act"). See 17 CFR 240.15c3-5. Please note that, in the adopting release for Rule 15c3-5 under the Act, the Securities and Exchange Commission (the "Commission") indicated that a broker-dealer relying on risk management technology developed by third parties should perform appropriate due diligence to help assure the controls are reasonably designed, effective, and otherwise consistent with Rule 15c3-5. Mere reliance on representations of the third-party technology developer, even if an exchange or other regulated entity, is insufficient to meet this due diligence standard.

⁸ The functionality of the platform that formats users' stock and option orders entered into it for users, which then submit those orders to broker-dealers or to exchanges (if the user is a broker-dealer) for execution, is the basis for this rule filing. Certain versions of the platform (as further described below) include other functionality, including additional risk controls and certain data analysis tools for real-time and historical data, including market scanners, watchlists and alerts and other advanced analytical tools, including time and sales analytics, charting capabilities, alerts, position analytics, and "Greek" calculations. These data analysis tools are not subject to this rule filing.

⁹ Currently, Silexx is not connected directly to Cboe Options, and thus orders may not be sent

through the platform to an executing broker, the broker will route that order to a market for execution on behalf of the entering user.¹⁰ The executing broker to which a user chooses to route an order is entirely within a user's discretion.¹¹ Users cannot directly route orders through the platform to an exchange or trading center. For users' convenience, Cboe Silexx will make available on Cboe Options' Web site the list of executing brokers that provide connectivity to the platform. The Exchange notes that executing broker's decision to connect to Silexx is within that firm's sole discretion.¹²

Certain executing brokers may permit Silexx users to designate a market to which the broker is to route an order received from the platform. Other executing brokers may employ "smart router" functionality, which generally determines where to route an order based on the brokers' pre-set algorithmic logic. Executing brokers may also provide users with the ability to either designate a destination market (an order-by-order basis or by default) or use the smart router functionality. Which executing broker a user chooses to use (and thus which type of routing permissions are available to a user) is entirely within a user's discretion (as discussed below, addition of such features to the platform are subject to a fee).

The Exchange represents Silexx is merely a new front-end order entry and management system that interfaces to the systems of various broker-dealers that elect to connect to the platform. The platform is not integrated into and currently has no connectivity to Cboe Options' trading system (or the trading systems of any other U.S. exchange or trading center). Cboe Options currently offers a similar front-end order entry system, the PULSe workstation, which permits users to enter orders for submission to Cboe Options and other markets. Thus, orders submitted

directly from the platform to Cboe Options. The Exchange may determine going forward to develop such a direct connection, which would only be available to platform users that are Trading Permit Holders, and would submit any necessary rule changes related to such platform changes.

¹⁰ A user may also be an executing broker if the user has connectivity to, and is a member of, Cboe Options or other options and/or stock exchanges (or trading centers).

¹¹ Currently, there are over 20 executing brokers with connections to Silexx to which users may route orders.

¹² To the extent a firm sublicenses Silexx to its customers (see below), the firm will determine which executing broker to use for platforms used by the firm and its customers (if the firm is not itself an executing broker). Users enter into separate agreements with execution brokers (to which Cboe Options or Cboe Silexx would not be a party).

through the platform will ultimately come to Cboe Options or other exchanges for execution through third-party routing technology. There will be no change to, or impact on, the Exchange's market structure as a result of offering the platform. As a result, the Exchange represents the platform does not require any changes to the Exchange's surveillance or communications rules.

Use of Silexx is completely voluntary. Cboe Silexx will make the platform available to users (and in certain cases, their customers, as further described below) as a convenience for entering and managing orders, but the platform is not an exclusive means for any user to send orders to Cboe Options or intermarket. Orders entered into the platform that are ultimately routed to Cboe Options for execution will receive no preferential treatment as compared to orders electronically sent to Cboe Options in any other manner. Orders entered into the platform that get routed to Cboe Options will be subject to current trading rules in the same manner as all other orders sent to the Exchange, which is the same as orders that are sent through the system to the Exchange today. The Cboe Options trade engine does not distinguish between orders sent from Silexx and orders sent in any other manner.

Cboe Silexx will begin making the system available to users upon the closing of the acquisition of Silexx.¹³ Cboe Silexx will grant users licenses to use Silexx. The Exchange notes that a firm or individual does not need to be a Trading Permit Holder to license the platform, because, as discussed above, a non-Trading Permit Holder may route an order through the platform to an executing broker that is a Trading Permit Holder, which broker can then route the order to Cboe Options (or any other U.S. exchange of which it is a member). Additionally, the platform is not currently directly connected to Cboe Options (or any other U.S. exchange), and orders submitted into the platform for execution must be routed through the connectivity of an executing broker.¹⁴ Cboe Silexx will also provide technical support, maintenance and user training for the platform upon the same terms and conditions for all users.

¹³ Cboe Silexx intends to close the acquisition on the signing date (and date of this rule filing). The proposed rule change will be operative on the closing date (subject to Commission approval of the requested operative delay waiver).

¹⁴ Rule 6.23A provides that only Trading Permit Holders and associated persons with authorized access may directly enter orders into Cboe Options' trading system.

The following table sets for the pricing for the various versions of the Silexx platform:

Platform version	Platform description	Fee per month per login ID
Silexx Basic	Order-entry and management system that provides basic functionality including real-time data, alerts, trade reports, views of exchange books, management of the customer's orders and positions, simple and complex order tickets, and basic risk features.	\$200.
Silexx Pro	Same functionality as basic platform plus additional features including an algorithmic order ticket, position analysis, charting, earnings and dividend information, delta hedging tools, volatility skews, and additional risk features.	400.
Silexx Sell-Side	Same functionality as Pro platform plus availability of clearing fields in order tickets.	475.
Silexx Pro Plus Risk	Same functionality as Pro platform plus access to unlimited customer accounts and customizable risk views.	600.
Silexx Buy-Side Plus Risk	Same functionality as Pro platform plus functionality package generally used by buy-side investors and customizable risk views.	300. ¹⁵
Additional functionality for platforms	Functionality description	Fee
API	Integrates the platform into users' other applications through the Silexx application programming interface ("API").	\$200/month/ login ID.
Crossing	Availability of crossing order ticket	300/month/login ID.
Port	Provides access to an executing broker with connectivity to the Silexx platform for routing.	100/month/login ID.
Staged Orders, Drop Copies, and Order Routing Functionality for FIX Connections (sessions).	Ability to receive staged orders, receive "drop copies" of order fill messages, and route orders to executing brokers.	250/month/FIX Connection.
Staged Orders, Drop Copies, and Order Routing Functionality for FIX Connections (sessions) Using Third-Party FIX Router.	Ability to receive staged orders, receive "drop copies" of order fill messages, and route orders to executing brokers through a third-party FIX router.	500/month/FIX Connection.
Equity Order Reports (paid by the trading firm).	Daily transmission of equity order reports	250/month/trading firm.
Domestic Index Data Package	Connection to certain domestic index market data feeds	25/user/month.
Market Data Feeds (excluding feeds included in Domestic Index Data Package).	Connections to other market data feeds	Actual costs (determined on a time (per hour) and materials basis) passed through to user. ¹⁶

The monthly platform fees for the Silexx platform will allow for Cboe Silexx's recoupment of the costs of maintaining, supporting and enhancing the platform, as well as for income from the value-added services being provided through use of the various versions of the platform. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same monthly log-in ID fees apply to all users of each version of the Silexx platform. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar products available throughout the

market and are based on Silexx's costs and fee structure currently in place for the platform. Users can choose to route orders, including to Cboe Options, without the use of the platform. Use of the platform is discretionary and not compulsory.

The additional functionality will permit users to add features in accordance with their use of the Silexx platform. The API functionality integrates the platform into users' other applications through the Silexx API. The crossing functionality provides users who choose to regularly cross orders with access to a crossing order ticket. The port fee applies to connections from users to executing brokers, which provides users with access to an executing broker with connectivity to the Silexx platform for routing. Financial Information eXchange ("FIX") is an industry-standard, non-proprietary API that permits market participants to connect to exchanges.

FIX connectivity provides users with the ability to receive "drop copy" order fill messages from their executing brokers. These fill messages allows customers to update positions, risk calculations, and streamline back-office functions. Additionally, FIX connections can be updated to permit the platform to receive orders sent from another system and then route these orders through the platform for execution (staged orders) as well as provide users with the ability to route orders in various ways to executing brokers (such as designation of a market to which the broker is to route an order received from the platform and use of a broker's "smart router" functionality). Some users have connections to third-party FIX routers, who currently normalize the format of messages of their client. To the extent a FIX router has a connection to the Silexx platform, users that also have connections to these routers may elect to receive staged

¹⁵ Proprietary buy-side firms with 25 or more login IDs receive a 15% discount on platform-related fees, excluding firms with dedicated instances of the platform, which discount incentives more buy-side investors to use Silexx.

¹⁶ The same reasonable hourly and materials rates will apply to all users based on then-current rates in line with industry standards, which costs (and any reasonable, standard mark-up) will be passed through to users.

orders, drop copies, and order routing functionality through a fix router. Connectivity of Silexx into the technology of third-party FIX routers causes the monthly fee for this functionality to be higher than the fee for users who receive this feature directly. Additionally, the Silexx platform permits users to elect to receive daily transmission of equity order reports related to order users submit through the platform. The proposed monthly fee will allow for the recoupment of costs of developing, maintaining, and supporting this reporting functionality.

The Exchange is offering each type of additional functionality as a convenience. The fees for this additional functionality allow for Cboe Silexx's recoupment of the costs of maintaining, supporting and enhancing the functionality, as well as for income from the value-added services being provided through use of the functionality in connection with the platform. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same fees apply to all users of each type of additional functionality. The Exchange believes these fees are reasonable and appropriate as they are

competitive with similar products available throughout the market and are based on Silexx's costs and fee structure currently in place for these features. Use of each additional functionality is discretionary and not compulsory. Except as otherwise set forth above, fees related to the Silexx platform will be paid by the user that licenses the platform directly from Cboe Silexx. The proposed fees would become effective on the closing date of the acquisition.¹⁷

The Exchange proposes the following additional fees related to dedicated instances of the Silexx platform. These fees are all paid by the client firm with the dedicated instance.

Dedicated instance functionality	Functionality description	Fee
Dedicated Instance	Deployment of Silexx infrastructure components at a client hosted site.	\$20,000/month.
Market Center Support	Access to and support for domestic and international market centers and asset classes.	1,000/market center/month.
Dedicated Feed Handler	Market data feed handler for third-party market data vendors	2,000/handler/month.
Bloomberg Backoffice Integration	Integrates Bloomberg backoffice files into master security database within Silexx.	1,000/month.
Pro Plus API	Dedicated instances of API functionality	250/user/month.
CME STP	Connection to CME's straight through processing facility	1,500/month.
FIX International Connection (Session)	FIX connection for multiple asset classes and multiple market centers	1,500/month.
Additional Site	Deployment of dedicated instance at a secondary site	6,500/month.

A dedicated instance is local installation of the Silexx platform within a client's system and hosted infrastructure, essentially permitting a more customized experience for firms and their customers. A dedicated instance permits the firm to determine which market centers it wants its instance to access (and receive support for that access), handle data from widely used third-party market-data vendors (e.g. Bloomberg), integrate commonly used Bloomberg back office files into a master security database, provide API functionality for users, connect to the Chicago Mercantile Exchange's straight-through processing facility, provide FIX connectivity for multiple asset classes and multiple market centers around the world, and add the platform functionality to a second hosted site. Additionally, the dedicated instance permits firms to elect to receive various

market data feeds from throughout the industry. The dedicated instance fees for the Silexx platform will allow for Cboe Silexx's recoupment of the costs of installing, maintaining, supporting and enhancing dedicated instances of the platform, as well as for income from the value-added services being provided through use of a dedicated instance and each type of added functionality. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same fees apply to all client firms with dedicated instances. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar products available throughout the market and are based on Silexx's costs and fee structure currently in place for the platform. Use of a dedicated instance is discretionary and not compulsory.

The Exchange notes that Cboe Silexx may provide additional technology products and services and may in the future engage in other business activities, which may include the provision of other technology products and services to broker-dealers and non-broker-dealers in addition to the Silexx platform.¹⁸ In this regard:

- There will be procedures and internal controls in place that are reasonably designed so that Cboe Silexx will not unfairly take advantage of confidential information it receives as a result of its relationship with Cboe Options in connection with the platform or any other business activities.

The books, records, premises, officers, directors, agents and employees of Cboe Silexx, with respect to the products that may be deemed facilities of Cboe Options, will be deemed to be those of

¹⁷ The Exchange generally invoices firms for fees in arrears on a monthly basis and intends to do so following the closing of the acquisition with respect to all fees related to the Silexx platform, as proposed in this filing. The Exchange understands certain Silexx customers pay fees upfront at the beginning of the month. Therefore, to avoid any double-charging of customers, Cboe Silexx will not invoice any user for the proposed fees for the month in which the closing date falls to the extent the user paid fees for such month to Silexx at the beginning of such calendar month.

¹⁸ Cboe Silexx is not and, at least initially, will not be registered as a broker-dealer under Section 15(a) of the Act. In this regard, the Exchange notes

the following: (a) Cboe Options and Cboe Silexx will be responsible for the marketing of the platform. Cboe Silexx will be the party to any agreements with customers for the platform. (b) Cboe Options and Cboe Silexx will be responsible for providing, supporting and maintaining the technology for the platform. Cboe Options will be responsible for ensuring that Cboe Silexx's provision of the platform, to the extent it is deemed a facility of Cboe Options, meets Cboe Options' self-regulatory organization obligations. (c) Unless it registers as a broker-dealer under Section 15(a) of the Act, Cboe Silexx will not hold itself out as a broker-dealer, provide advice related to securities transactions, match orders, make decisions about

routing orders, facilitate the clearance and settlement of executed trades, prepare or send transaction confirmations, screen counterparties for creditworthiness, hold funds or securities, open, maintain, administer or close brokerage accounts, or provide assistance in resolving problems, discrepancies or disputes related to brokerage accounts. Should Cboe Silexx seek to register as a broker-dealer in the future, the Exchange represents that the broker-dealer would not perform any operations without first discussing with the Commission staff whether any of the broker-dealer's operations should be subject to an Exchange rule filing required under the Act.

Cboe Options for purposes of and subject to oversight pursuant to the Act.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²¹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,²² which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes that offering the platform and all other functionality to market participants protects investors and is in the public interest, because it will allow the Exchange to directly offer users an order entry and management system in addition to the technology products it currently offers (such as the PULSe workstation). The Silexx platform is currently offered and used in the marketplace and competes with similar products offered by other technology providers as well as other exchanges.²³ Additionally, firms can create their own proprietary front-end order entry software and routing technology.

The Exchange believes the proposed rule change does not discriminate among market participants because use

of the platform and all other functionality is completely voluntary. Users can choose to route orders, including to Cboe Options, without the use of the platform. The Exchange is making the platform and all other functionality available as a convenience to market participants, who will continue to have the option to use any order entry and management system available in the marketplace to send orders to the Exchange and other exchanges; the platform is merely an alternative that will be offered by the Exchange rather than its current owner. The Silexx platform is not an exclusive means available to market participants to send orders to Cboe Options or other markets. Any orders sent through the platform to Cboe Options for execution will receive no preferential treatment. Additionally, the platform will be available to all market participants, and the Exchange will license the platform to market participants pursuant to the same terms and conditions.

The Exchange believes the platform and additional functionality removes impediments to and perfects the mechanism of a free and open market and a national market system because users have discretion to determine to which broker-dealer they will route orders from the platform, and, for certain versions of the platform, what type of routing parameters will be available to them (whether it is the ability to designate a destination market or use smart router functionality). Non-broker-dealer users may separately enter into an agreement with a broker-dealer (the Exchange will have no involvement with the entry into such agreements), which can provide for routing to U.S. options and stock exchanges (and trading centers). Only Trading Permit Holders will continue to be permitted to directly route orders received from the platform to Cboe Options, and only members of other U.S. exchanges will be able to enter orders for execution at those exchanges that they receive from the platform. The Exchange also notes that broker-dealers must continue to ensure that orders they receive from the platform will be subject to applicable pre-trade risk control requirements of the broker-dealer that directly submits the orders to an exchange in accordance with Rule 15c3-5 under the Act.²⁴

The monthly log-in ID fees, API fee, crossing fee, and port fee for the Silexx platform will allow for Cboe Silexx's recoupment of the costs of developing, maintaining, supporting and enhancing the platform, the API and crossing functionality, and connections from

users to executing brokers, as well as for income from the value-added services being provided through use of the various versions of the platform and these additional services. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same monthly log-in ID fees apply to all users of each version of the Silexx platform, and because varying fees for different versions of the platform reflect the additional functionality available in the versions. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar products available throughout the market and are substantially similar to Silexx's costs and fee structure currently in place for the platform. Use of the platform, and other functionality, is discretionary and not compulsory.

The monthly fees related to FIX connectivity services will allow for the recoupment of costs of maintaining and supporting this functionality as well as for income from the value-added services being provided from use of this functionality. The Exchange believes the fee is reasonable because the Exchange incurs costs to monitor, develop, and implement upgrades, maintain, and customize the platform to ensure availability of this functionality to customers. The Exchange believes the fee is equitable and non-discriminatory because the monthly fee is assessed to any user electing to use this functionality. Connectivity of Silexx into the technology of third-party FIX routers causes the monthly fee for this functionality to be higher than the fee for users who receive this feature directly. Use of the FIX connectivity services by a user is voluntary.

The proposed monthly fee related to equity order reports will allow for the recoupment of costs of developing, maintaining, and supporting this reporting functionality. The Exchange believes the monthly fee for transmission of equity order reports is reasonable because the Exchange incurs costs to monitor, develop, and implement upgrades, maintain, and customize the platform to allow sending and receiving of equity order reports. The Exchange believes the fee is equitable and not unfairly discriminatory as it is assessed to all executing brokers electing to receive equity order reports. Receipt of the reports is completely voluntary.

A dedicated instance is local installation of the Silexx pro platform within a client's system and hosted Web site benefits investors, as it permits a more customized experience for firms and their customers. The Exchange

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ *Id.*

²² 15 U.S.C. 78f(b)(4).

²³ For example, International Securities Exchange, LLC ("ISE") offers a front-end order entry workstation called PrecISE to its customers, which the Exchange believes has similar functionality as the system.

²⁴ See 17 CFR 240.15c3-5.

believes the fees are reasonable because the Exchange incurs costs to customize dedicated instances of the platform. The dedicated instance fees for the Silexx platform will allow for Cboe Silexx's recoupment of the costs of installing, maintaining, supporting and enhancing dedicated instances of the platform, as well as for income from the value-added services being provided through use of a dedicated instance and each type of added functionality. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same fees apply to all client firms with dedicated instances. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar products available throughout the market and are based on Silexx's costs and fee structure currently in place for the platform. Use of a dedicated instance is discretionary and not compulsory.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange will make each version of the platform and additional functionality available to market participants on the same terms and conditions, and use of the platform will be completely voluntary. Users have discretion to determine which version of the platform to use, if any, and to which executing broker-dealer to route orders through the platform. Market participants will continue to have the flexibility to use any order entry and management technology they choose. The Exchange will merely be directly offering the platform as an alternative to a product that the Exchange currently makes available in the market (PULSe). If market participants believe that other products available in the marketplace are more beneficial than the Silexx platform, they will simply use those products instead. Orders sent to the Exchange through the platform for execution will receive no preferential treatment. The Cboe Options trade engine does not distinguish between orders sent from Silexx and orders sent in any other manner. Use of the platform provides users with no additional access to the Exchange than is available through the use of any other front-end order entry system. The Exchange notes that the platform and additional functionality are already available and used in the marketplace today. This acquisition merely changes

the party that will own and license them to users going forward.

The proposed fees related to additional functionality will not impose any burden on competition, because the fees relate to optional functionality and are assessed equally on users or firms electing to use the functionality. Use of such functionality is completely voluntary. Access to Silexx functionality, and the proposed Silexx fees, are unrelated to trading activity on the Exchange.

The proposed fees related to dedicated instances of the platform will not impose any burden on competition, because the fees relate to optional functionality and are assessed equally on firms electing to obtain a dedicated instance. Use of a dedicated instance is completely voluntary.

Cboe Options believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. Cboe Options will be offering a type of product that is widely available throughout the industry, including from some exchanges. Market participants can also develop their own proprietary products with the same functionality. ISE currently offers a similar front-end order entry application. Cboe Options believes that the platform will be an addition to its current suite of technology products it offers to market participants to enter and manage orders for routing to U.S. exchanges. Any market participant will be able to use the platform. Cboe Silexx's ownership of Silexx will not provide a competitive advantage over competing products as a result of its affiliation with Cboe.

The Exchange notes that when Congress charged the Commission with supervising the development of a "national market system" for securities, a premise of its action was that prices, products and services ordinarily would be determined by market forces.²⁵ Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention, to determine prices, products and services in the securities markets.²⁶ Many

²⁵ See, e.g., H.R. Rep. No. 94-229, at 92 (1975) (Conf. Rep.) (stating Congress's intent that the "national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed").

²⁶ See S. Rep. No. 94-75, 94th Cong., 1st Sess. 8 (1975) ("The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services."); Order Approving Proposed Rule Change Relating to NYSE Arca Data, Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR

exchanges and other market participants make technology products, including products similar to the Silexx platform, available to the industry. Other market participants that offer these products can adjust pricing or add functionality to attract users to their products to compete with the Exchange-offered products based on all competitive forces in the marketplace, as the Exchange expects these other market participants currently do. The Exchange believes that other market participants that offer these products will continue to remain competitive in the market for order-entry, management and routing products, as they currently are in this market in which at least two exchanges (including Cboe Options) offer similar technology products. For example, Cboe Options currently offers PULSe, and ISE currently offers PrecISE. The Exchange believes that many investors will continue to elect to use competing products available from non-exchange technology providers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Act²⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁸

74770 (Dec. 9, 2008) at 74781 ("The Exchange Act and its legislative history strongly support the Commission's reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.") (SR-NYSEArca-2006-21); Regulation NMS, 70 FR at 37499 (observing that NMS regulation "has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies").

²⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁸ 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

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange states that such waiver will enable continuous access to the platform by users and a seamless transition of ownership of Silexx. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and waiver will allow current users of Silexx to continue to use the platform without interruption. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.³⁰

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 to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2017-068 on the subject line.

of filing of the proposed rule change, or such shorter time as designated by the Commission.

²⁹ 17 CFR 240.19b-4(f)(6)(iii).

³⁰ 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).

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-2017-068. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2017-068, and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25144 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82080; File No. SR-NYSEArca-2017-86]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Shares of the JPMorgan Managed Futures ETF Under NYSE Arca Rule 8.600-E

November 15, 2017.

I. Introduction

On September 14, 2017, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 JPMorgan Managed Futures ETF ("Fund") under NYSE Arca Rule 8.600-E. The proposed rule change was published for comment in the **Federal Register** on October 5, 2017.³ On October 25, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On November 9, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.⁵ The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81766 (September 29, 2017), 82 FR 46566 ("Notice").

⁴ Amendment No. 1 to the proposed rule change replaced and superseded the original filing in its entirety. In Amendment No. 1, the Exchange clarified (i) the circumstances under which the Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Redemption Instruments (as defined in the Notice); and (ii) that quotation and last sale information for the Shares and for portfolio holdings of the Fund that are U.S. exchange-listed, including preferred stocks and REITs, will be available via the Consolidated Tape Association ("CTA") high speed line. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2017-86/nysearca201786-2655573-161380.pdf>. Amendment No. 1 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 Amendment No. 2 to the proposed rule change replaces and supersedes the original filing, as modified by Amendment No. 1, in its entirety. In Amendment No. 2, the Exchange represented that: (i) Information regarding market price and trading volume for the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and (ii) information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-nysearca-2017-86/nysearca201786-2678501-161480.pdf>.

Amendment No. 2 is not subject to notice and comment because it is a technical amendment that

Continued

³¹ 17 CFR 200.30-3(a)(12).

has received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2⁶

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Rule 8.600-E, which governs the listing and trading of Managed Fund Shares⁷ on the Exchange. The Fund is a series of J.P. Morgan Exchange-Traded Fund Trust ("Trust"), a Delaware statutory trust.⁸ J.P. Morgan Investment Management Inc. ("Adviser") will be the investment adviser to the Fund and will also provide administrative services for and oversee the other service providers for the Fund.⁹ JPMorgan

does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

⁶ The Commission notes that additional information regarding the Trust (as defined below), the Fund, its investments, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of NAV, distributions, and taxes, among other things, can be found in the Notice, Amendment Nos. 1 and 2, and the Registration Statement (as defined below), as applicable. See Notice, *supra* note 3, Amendment No. 1, *supra* note 4, Amendment No. 2, *supra* note 5, and Registration Statement, *infra* note 8.

⁷ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies.

⁸ The Trust is registered under the 1940 Act. On July 18, 2017, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 ("Securities Act") and the 1940 Act relating to the Fund (File Nos. 333-191837 and 811-22903) ("Registration Statement"). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 31990 (February 9, 2016) ("Exemptive Order"). The Exchange represents that investments made by the Fund will comply with the conditions set forth in the Exemptive Order.

⁹ The Adviser is a wholly-owned subsidiary of JPMorgan Asset Management Holdings Inc., which is an indirect, wholly-owned subsidiary of JPMorgan Chase & Co., a bank holding company. The Adviser is not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented and will maintain a "fire wall" with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Distribution Services, Inc. will be the distributor of the Fund's Shares.

A. Principal Investments

According to the Exchange, the Fund will seek to provide long-term total return. Through the Adviser's systematic investment process, the Fund seeks to achieve its investment objective by investing globally to exploit opportunities across a broad range of asset classes. The Fund will invest its assets globally to gain exposure, either directly or through the use of derivatives, to equity securities (across market capitalizations) in developed markets, debt securities (including below investment grade or high yield debt securities), commodities (through its Subsidiary, as defined below), and currencies (including in emerging markets). The Fund may use both long and short positions (achieved primarily through the use of financial derivative instruments). The Adviser will make use of derivatives, including swaps, futures, options, and forward contracts, in implementing its strategies.

According to the Exchange, under normal market conditions,¹⁰ the Fund will invest principally (*i.e.*, at least 50% of the Fund's assets) in the securities and financial instruments described below, which may be represented by derivatives relating to such securities and financial instruments, as further discussed below.

The Fund may purchase and sell U.S. and foreign exchange-traded commodity futures, equity futures, options on equity futures, bond futures, index futures, currency futures, and options on currency futures.

The Fund may invest in over-the-counter ("OTC") total return swaps on equities, fixed income, commodities, and foreign currencies; currency swaps; interest rate swaps; credit default swaps ("CDS"); CDS index swaps ("CDX") and loan credit default index swaps ("LCDX").

The Fund may invest in the following forward and spot currency transactions: Non-deliverable forwards, foreign currency forward contracts,¹¹ spot currency transactions, caps, and floors.

The Fund may invest in cash and cash equivalents, which are investments in money market funds (including funds for which the Adviser and/or its

affiliates may serve as investment adviser or administrator), bank obligations,¹² and commercial paper.¹³

The Fund may invest in U.S. Government obligations, which may include direct obligations of the U.S. Treasury, including Treasury bills, notes, and bonds, all of which are backed as to principal and interest payments by the full faith and credit of the United States, and separately traded principal and interest component parts of such obligations that are transferable through the Federal book-entry system known as Separate Trading of Registered Interest and Principal of Securities ("STRIPS") and Coupons Under Book Entry Safekeeping ("CUBES").

The Fund may invest in U.S. and foreign corporate debt.

B. Other Investments

While the Fund, under normal market conditions, will invest at least fifty percent (50%) of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in the other assets and financial instruments described below.

The Fund may invest in U.S. and foreign exchange-traded call and put options on equities, equity indexes, and equity futures.

The Fund will gain exposure to commodity markets by investing directly in commodity-related instruments or indirectly by investing up to 20% of its total assets in the Managed Futures Fund CS Ltd., a wholly owned subsidiary of the Fund organized under the laws of the Cayman Islands ("Subsidiary"). The Subsidiary is also advised by the Adviser. The Subsidiary will only invest in commodity- or cash-management-related investments described above in the Principal Investments section. However, the Subsidiary (unlike the Fund) may invest without limitation in commodity-related investments, including derivative instruments linked to the value of a particular commodity, commodity index, or commodity futures contract, as described above. The

¹² Bank obligations include the following: Bankers' acceptances, certificates of deposit and time deposits. Bankers' acceptances are bills of exchange or time drafts drawn on and accepted by a commercial bank. Maturities are generally six months or less. Certificates of deposit are negotiable certificates issued by a bank for a specified period of time and earning a specified return. Time deposits are non-negotiable receipts issued by a bank in exchange for the deposit of funds.

¹³ Commercial paper consists of secured and unsecured short-term promissory notes issued by corporations and other entities. Maturities generally vary from a few days to nine months.

¹⁰ The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5).

¹¹ A foreign currency forward contract is a negotiated agreement between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate. The rate can be higher or lower than the spot rate between the currencies that are the subject of the contract.

Subsidiary will otherwise be subject to the same investment restrictions as the Fund.

The Fund may invest in U.S. exchange-listed preferred stock.

The Fund may invest in real estate investment trusts (“REITs”) that are listed and traded on U.S. national securities exchanges.

The Fund may invest in repurchase agreements and reverse repurchase agreements.

The Fund may invest in sovereign obligations, which are investments in debt obligations issued or guaranteed by a foreign sovereign government or its agencies, authorities, or political subdivisions. The Fund may also invest in obligations of supranational entities, including securities designated or supported by governmental entities to promote economic reconstruction or development of international banking institutions and related government agencies.

In addition to money market funds discussed in the Principal Investments section, the Fund may invest in shares of other non-exchange-traded investment company securities, including investment company securities for which the Adviser and/or its affiliates may serve as investment adviser or administrator, to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder and/or any applicable exemption or exemptive order under the 1940 Act with respect to such investments.

C. Investment Restrictions

The Fund’s investments, including investments in derivatives, will be consistent with the Fund’s investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund’s (and the Subsidiary’s) investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2Xs and 3Xs) of the Fund’s primary broad-based securities benchmark index (as defined in Form N-1A).¹⁴

D. Application of Generic Listing Requirements

The Exchange proposes to list and trade the Shares under Commentary .01 to NYSE Arca Rule 8.600–E, which provides generic listing standards for Managed Fund Shares. Commentary

.01(e) to NYSE Arca Rule 8.600–E currently requires that, on both an initial and ongoing basis, no more than 20% of the Fund’s assets may be invested in OTC derivatives (calculated as the aggregate gross notional value of the OTC derivatives). The Exchange states that the portfolio for the Fund will not meet the generic listing requirement set forth in Commentary .01(e) to Rule 8.600–E. Specifically, the Exchange states that the aggregate gross notional value of the Fund’s investments in OTC derivatives may exceed 20% of Fund assets, calculated based on the aggregate gross notional value of such OTC derivatives. The Exchange states that the Adviser intends to engage in strategies that utilize OTC foreign currency forward transactions and OTC swaps, as further described above in the Principal Investments section, and that, depending on market conditions, the exposure of the Fund to these strategies may exceed 20% of the Fund’s assets.

According to the Exchange, the Adviser represents that the foreign exchange forward market is OTC and swaps may be traded OTC, and, as such, it is not possible to implement these strategies efficiently using listed derivatives. Therefore, if the Fund was limited to investing 20% of its assets in OTC derivatives, the Fund would have to exclude or underweight these strategies and would be less diversified, concentrating risk in the other strategies it will utilize. In addition, the Exchange states that the Adviser represents that the Fund will follow an investment strategy utilized within the JP Morgan Diversified Alternative ETF, shares of which have previously been approved by the Commission for Exchange listing and trading.¹⁵

The Exchange states that it believes that it is appropriate and in the public interest to allow the Fund to exceed the 20% limit on portfolio assets that may be invested in OTC derivatives in Commentary .01(e) to Rule 8.600 for several reasons. First, the Exchange states that the limit could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. In addition, the Exchange represents that the Fund’s investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund’s investment objective and policies and, to limit the

potential risk associated with such transactions, the Fund will segregate or “earmark” assets determined to be liquid by the Adviser in accordance with procedures established by the Trust’s Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. Furthermore, the Exchange represents that the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. The Exchange states that, because the markets for certain assets, or the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure. In addition, the Exchange states that OTC derivatives may be tailored more specifically to the assets held by the Fund than available listed derivatives.

According to the Exchange, other than Commentary .01(e), the Fund’s portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

III. Discussion and Commission’s Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁶ In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act,¹⁷ which requires, among other things, that the Exchange’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As noted above, the Exchange proposes that more than 20% of the Fund’s assets (calculated as the aggregate gross notional value) may be invested in OTC forwards and swaps.¹⁸

¹⁶ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ The Exchange states that investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund’s investment objective and policies. To limit the potential risk associated with such transactions, the Fund will segregate or “earmark” assets determined

¹⁴ The Fund’s broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund’s first full calendar year of performance.

¹⁵ See Securities Exchange Act Release No. 77904 (May 25, 2016), 81 FR 35101 (June 1, 2016) (SR–NYSEArca–2016–17) (order approving listing and trading of shares of the JPMorgan Diversified Alternative ETF under NYSE Arca Equities Rule 8.600).

The Exchange states that limiting the Fund's investments in OTC derivatives to 20% of the Fund's assets could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. The Exchange states that if the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund would have to exclude or underweight the strategies utilizing OTC forwards and OTC swaps and the Fund would be less diversified, concentrating risk in the other strategies it plans to utilize. The Exchange states that the Adviser represents that it is not possible to implement its investment strategies efficiently using listed derivatives because the foreign exchange forward market is OTC and swaps may be traded OTC. In addition, the Exchange states that suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure because the markets for certain assets, or the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments. Furthermore, the Exchange states that OTC derivatives may be tailored more specifically than the available listed derivatives to the assets held by the Fund.¹⁹ The Exchange represents that the Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value the derivative positions intraday. As proposed, on a daily basis, the Fund will disclose on its Web site the information regarding the Disclosed Portfolio required under NYSE Arca Rule 8.600-E(c)(2) to the extent applicable.²⁰ The Web site information will be publicly available at no charge.

to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk.

¹⁹In addition, the Adviser represents that the Fund will follow an investment strategy utilized by the JP Morgan Diversified Alternatives ETF, shares of which were previously approved for Exchange listing and trading by the Commission pursuant to Section 19(b)(2) of the Act. *See supra* note 15.

²⁰NYSE Arca Rule 8.600-E(c)(2) requires that the Web site for each series of Managed Fund Shares disclose the following information regarding the Disclosed Portfolio, to the extent applicable: (A) Ticker symbol; (B) CUSIP or other identifier; (C) description of the holding; (D) with respect to holdings in derivatives, the identity of the security, commodity, index or other asset upon which the derivative is based; (E) the strike price for any options; (F) the quantity of each security or other

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,²¹ which sets forth Congress's 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 and last-sale information for the Shares will be available via the CTA high-speed line. The Portfolio Indicative Value ("PIV") for the Fund, as defined in NYSE Arca Rule 8.600-E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session.²² Information regarding market price and trading volume for the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for portfolio holdings of the Fund that are U.S. exchange-listed, including preferred stocks and REITs, will be available via the CTA high speed line and from the exchanges on which they are listed. Quotation and last sale information for U.S. and foreign exchange-traded futures will be available from the exchanges on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Price information for preferred stocks will also be available from one or more major market data vendors or from broker-dealers. Quotation information for cash equivalents, swaps, obligations of supranational agencies, non-exchange-listed investment company securities (including money market funds), U.S. Government obligations, U.S. Government agency obligations, sovereign obligations, repurchase agreements, reverse repurchase agreements, and U.S. and foreign corporate debt may be obtained from

asset held as measured by (i) par value, (ii) notional value, (iii) number of shares, (iv) number of contracts, and (v) number of units; (G) maturity date; (H) coupon rate; (I) effective date; (J) market value; and (K) percentage weighting of the holding in the portfolio.

²¹ 15 U.S.C. 78k-1(a)(1)(C)(iii).

²² Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds.

brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments, and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services. Forwards and spot currency price information will be available from major market data vendors. In addition, the Fund's Web site, which will be publicly available prior to the public offering of the Shares, will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission also believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted if the circuit-breaker parameters in NYSE Arca Rule 7.12-E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Moreover, trading in the Shares will be subject to NYSE Arca Rule 8.600-E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange states that the Adviser is not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented and will maintain a "fire wall" with respect to that broker-dealer regarding access to information concerning the composition of and/or changes to the Fund's portfolio.²³ Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.²⁴

²³ The Exchange also represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940.

²⁴ *See* NYSE Arca Rule 8.600-E(d)(2)(B)(ii).

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange represents that:

(1) Other than Commentary .01(e), the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

(2) The aggregate gross notional value of the Fund's investments in OTC derivatives may exceed 20% of Fund assets, calculated based on the aggregate gross notional value of such OTC derivatives.

(3) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

(4) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(5) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, exchange-listed equity securities, certain futures, and certain exchange-traded options 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 such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

(6) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually

redeemable); (b) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV and the Disclosed Portfolio is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information. In addition, the Information Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

(7) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(8) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act.²⁵

(9) The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's (and the Subsidiary's) investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

The Exchange represents that all statements and representations made in the filing regarding (1) the description of the portfolio; (2) limitations on portfolio holdings or reference assets; or (3) the applicability of Exchange listing rules specified in the rule filing constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor²⁶ for

²⁵ See 17 CFR 240.10A–3.

²⁶ The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that “monitor” and “surveil” both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or

compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

This approval order is based on all of the Exchange's statements and representations, including those set forth above and in Amendment Nos. 1 and 2.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act²⁷ and Section 11A(a)(1)(C)(iii) of the Act²⁸ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁹ that the proposed rule change (SR–NYSEArca–2017–86), as modified by Amendment Nos. 1 and 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–25136 Filed 11–20–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82083; File No. SR–NYSEARCA–2017–125]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Governing Documents of Its Intermediate Parent Companies Intercontinental Exchange Holdings, Inc., NYSE Holdings LLC and NYSE Group, Inc. To Make Them More Consistent With the Governing Documents of Their Ultimate Parent Intercontinental Exchange, Inc.

November 15, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”)² and Rule 19b–4 thereunder,³ notice is hereby

less stringent obligation than “surveil” with respect to the continued listing requirements.

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ 15 U.S.C. 78k–1(a)(1)(C)(iii).

²⁹ 15 U.S.C. 78s(b)(2).

³⁰ 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.

given that on November 3, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the governing documents of its intermediate parent companies Intercontinental Exchange Holdings, Inc. (“ICE Holdings”), NYSE Holdings LLC (“NYSE Holdings”), and NYSE Group, Inc. (“NYSE Group”) to make them more consistent with the governing documents of their ultimate parent Intercontinental Exchange, Inc. (“ICE”), including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the governing documents of its intermediate parent companies ICE Holdings, NYSE

Holdings, and NYSE Group (together, the “Intermediate Holding Companies”) to make them more consistent with the ICE governing documents, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation.

More specifically, the Exchange proposes to amend the following documents (collectively, the “Governing Documents”):

- Eighth Amended and Restated Certificate of Incorporation of ICE Holdings (“ICE Holdings Certificate”) and Fifth Amended and Restated Bylaws of ICE Holdings (“ICE Holdings Bylaws”);
- Eighth Amended and Restated Limited Liability Company Agreement of NYSE Holdings (“NYSE Holdings Operating Agreement”); and
- Fifth Amended and Restated Certificate of Incorporation of NYSE Group (“NYSE Group Certificate”) and Third Amended and Restated Bylaws of NYSE Group (“NYSE Group Bylaws”).

As discussed below, the proposed changes to the Governing Documents would make the relevant provisions more consistent with the Fourth Amended and Restated Certificate of Incorporation of ICE (“ICE Certificate”) and Eighth Amended and Restated Bylaws of ICE (“ICE Bylaws”).⁴

ICE, the ultimate parent of the Exchange, owns 100% of the equity interest in ICE Holdings, which in turn owns 100% of the equity interest in NYSE Holdings. NYSE Holdings owns 100% of the equity interest of NYSE Group, which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (“NYSE”), NYSE American LLC (“NYSE American”) and NYSE National, Inc. (“NYSE National”).⁵

⁴ See Securities Exchange Act Release No. 80752 (May 24, 2017), 82 FR 25018 (May 31, 2017) (SR–NYSE–2017–13; SR–NYSEArca–2017–29; SR–NYSEMKT–2017–17; SR–NYSENAT–2017–01). ICE is a publicly traded company listed on the NYSE.

⁵ The Exchange’s affiliates NYSE, NYSE American (previously NYSE MKT LLC), and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSE–2017–57, SR–NYSEAmer–2017–29, and SR–NYSENAT–2017–05.

In addition, the Exchange proposes to make a nonsubstantive change to the ICE Certificate.

Definition of Exchange

With the exception of the NYSE Group Bylaws, the Governing Documents define “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” and, in the case of the NYSE Group Certificate, “Regulated Subsidiary” and “Regulated Subsidiaries” to mean, individually or collectively, the four national securities exchanges owned by ICE (the NYSE, NYSE American, NYSE Arca, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (“NYSE Arca Equities”), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the relevant Intermediate Holding Company. The NYSE Group Bylaws list the relevant entities rather than use a defined term.

Unlike the Governing Documents, the ICE Certificate and ICE Bylaws use the defined term “Exchange” or “Exchanges” instead of “U.S. Regulated Subsidiary” or “U.S. Regulated Subsidiaries.”⁶ “Exchange” is defined as a national securities exchange registered under Section 6 of the Exchange Act⁷ that is directly or indirectly controlled by ICE.⁸ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the terms “Exchange” instead of “U.S. Regulated Subsidiary” or “Regulated Subsidiary.” Similarly, the Exchange proposes to use “Exchange” or “Exchanges,” as applicable, in place of “U.S. Regulated Subsidiaries” or “Regulated Subsidiaries,” and to use “Exchange” or “Exchanges,” as applicable, instead of lists of specific entities.

As a result of the proposed change, the Governing Documents would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. The Exchange believes omitting references to NYSE Arca, LLC, a subsidiary of NYSE Group, is appropriate because the Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”⁹ NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets. The

⁶ See 82 FR 25018, *supra* note 4, at 25019–25020.

⁷ 15 U.S.C. 78f.

⁸ See ICE Certificate, Art. V Sec. A(3)(a), and ICE Bylaws, Art. III, Sec. 3.15.

⁹ 15 U.S.C. 78c(a)(1).

references to NYSE Arca Equities are obsolete, as it has been merged out of existence.¹⁰

The Exchange accordingly proposes the following changes:

- In the ICE Holdings Certificate, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article V, Section A.10 would be deleted, and the definition of “Exchange” added to Article V, Section A(1).¹¹ In the ICE Holdings Bylaws, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article III, Section 3.15 would be deleted, and in the NYSE Group Certificate, the definitions of “Regulated Subsidiary” and “Regulated Subsidiaries” in Article IV, Section 4(b)(1)(A) would be deleted, and the definition of “Exchange” added in the deleted definitions’ place.

- In Article 1, Section 1.1 of the NYSE Holdings Operating Agreement, the definitions of “New York Stock Exchange,” “NYSE Arca,” “NYSE Arca Equities,” “NYSE MKT,” “NYSE National,” “U.S. Regulated Subsidiary,” and “U.S. Regulated Subsidiaries” would be deleted and the definition of “Exchange” added.

- In the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(w), the text “of the Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation,” would be replaced with “Exchange,” and “the Regulated Subsidiaries” would be replaced with “each Exchange.”

- In the NYSE Group Bylaws, the list of national securities exchanges, NYSE Arca, LLC, NYSE Arca Equities and their successors in Article VII, Section 7.9(b) would be replaced with the definition of “Exchange.”

Throughout the Governing Documents, “U.S. Regulated Subsidiary,” “U.S. Regulated Subsidiary’s,” “U.S. Regulated Subsidiaries,” “Regulated Subsidiary,” “Regulated Subsidiary’s,” and “Regulated Subsidiaries” would be replaced with “Exchange,” “Exchange’s,” or “Exchanges,” as applicable. Similarly, lists of any or all of the ICE national securities exchanges, NYSE Arca Equities, NYSE Arca, LLC, their successors, facilities, or the boards of directors of successors, would be

replaced with “Exchange” or “Exchanges,” as applicable.¹²

When making such replacements, the Exchange would utilize a comma or the terms “any,” “each,” “an,” or “one or more” and delete the terms “the” or “of the” as necessary to integrate the term into the text. Finally, references to “their” would be amended to “its” as required by the context.¹³

Definition of Intermediate Holding Companies

The ICE Holdings and NYSE Holdings Governing Documents reference NYSE Holdings and NYSE Group by name.¹⁴ The ICE Certificate and ICE Bylaws use the defined term “Intermediate Holding Companies” instead, defining an “Intermediate Holding Company” as “any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange.”¹⁵ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the term “Intermediate Holding Companies” instead of specific names.

The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V, Section A(3)(a); ICE Holdings Bylaws, Article III, Section 3.14(a)(2); and NYSE Holdings Operating Agreement:

- In these ICE Holdings Governing Document provisions, the initial references to NYSE Holdings or NYSE Group, including the text “(if and to the extent that NYSE Group continues to exist as a separate entity),” would be replaced with the definition of “Intermediate Holding Company.”¹⁶ The additional references to NYSE Holdings or NYSE Group would be replaced with the terms “Intermediate

¹² For example, in Article XII, clause (b) of the NYSE Group Certificate, “the boards of directors of New York Stock Exchange, NYSE Arca, NYSE Arca Equities, NYSE MKT and NYSE National or the boards of directors of their successors” would be amended to “the boards of directors of each Exchange.”

¹³ For example, in Article III, Section 3.14(b) of the ICE Holdings Bylaws and Article III, Section 3.12(c) of the NYSE Holdings Operating Agreement, “their regulatory authority” would be amended to “its regulatory authority.”

¹⁴ The NYSE Group Governing Documents do not make such references because there are no Intermediate Holding Companies between NYSE Group and the Exchange or its national securities exchange affiliates.

¹⁵ See ICE Certificate, Art. V, Sec. A.3(a); ICE Bylaws, Art. III, Sec. 3.14(a)(2); and 82 FR 25018, *supra* note 4, at 25019. The Intermediate Holding Companies between ICE and the Exchange are ICE Holdings, NYSE Holdings, and NYSE Group.

¹⁶ In the ICE Holdings Certificate, the word “respective” also would be deleted.

Holding Company” and “Intermediate Holding Companies,” as applicable.

- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “NYSE Group” would be deleted and the definition of “Intermediate Holding Company” added, and in Article III, Section 3.12(b)(2) and Article IX, Section 9.1(a)(3)(A) and (b)(3)(A), references to “NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)” would be replaced with “Intermediate Holding Companies” or “Intermediate Holding Company,” as applicable.

Considerations of the Board

The ICE Holdings Bylaws, NYSE Holdings Agreement, and NYSE Group Certificate have provisions setting forth considerations directors must take into account in discharging their responsibilities.¹⁷ Each such provision limits claims against directors, officers and employees as well as the relevant Intermediate Holding Company. The Exchange proposes to amend such provisions to substantially conform them to the analogous provision in the ICE Bylaws, as well as the governing documents of other holding companies of national securities exchanges, which are substantially similar.¹⁸

The Exchange accordingly proposes the following changes to the ICE Holdings Bylaws, Article III, Section 3.14(c); NYSE Group Certificate, Article V, Section 8; and NYSE Holdings Operating Agreement, Section 3.12(d):

- The ICE Holdings Bylaws and NYSE Group Certificate provisions would be expanded in scope to apply to any “past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as directors, officers and employees. To implement the change, the Exchange proposes to amend the final sentences of the ICE Holdings Bylaws and NYSE Group Certificate provisions as follows (deletions [bracketed], additions *italicized*):

No past or present stockholder, employee, [former employee,] beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person

¹⁷ See ICE Holdings Bylaws, Art. III, Sec. 3.14; NYSE Holdings Agreement, Art. III, Sec. 3.12; and NYSE Group Certificate Art. V, Sec. 8.

¹⁸ See ICE Bylaws, Art. III, Sec. 3.14(c); Amended and Restated Bylaws of Bats Global Markets Holdings, Inc., Art. VII, Sec. 7.2; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Art. 4, Sec. 4.12; Bylaws of IEX Group, Inc., Art. VII, Sec. 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Art. VII, Sec. 1.

¹⁰ See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR-NYSEArca-2017-40).

¹¹ The definition of “Exchange” would replace “any U.S. Regulated Subsidiary (as defined below)” in Art. V, Sec. A(1).

or entity shall have any rights against any director, officer, [or] employee or agent of the Corporation or the Corporation under this Section. . . .

- The NYSE Holdings Operating Agreement provision would be expanded in scope to apply to any “past or present Manager, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as Managers, officers and employees. To implement the change, the Exchange proposes to amend the final sentence of the provision as follows (deletions [bracketed], additions *italicized*):

No *past or present Manager*, employee, [former employee,] beneficiary, *agent*, customer, creditor, community or regulatory authority or member thereof or *other person or entity* shall have any rights against any Manager, officer, [or] employee or agent of the Company or the Company under Section 3.12.

Limitations on Voting and Ownership

The ICE Holdings Certificate, NYSE Holdings Operating Agreement, and NYSE Group Certificate have provisions that establish voting and ownership concentration limitations on owners of their respective common stock above certain thresholds, which apply for so long as the relevant Intermediate Holding Company owns any U.S. Regulated Subsidiary (the “Limitation Provisions”).¹⁹ Such provisions authorize the relevant entity’s Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations.

The ICE Certificate has a similar voting and ownership concentration limitation provision.²⁰ The Exchange proposes to amend the Limitations Provisions to make them more consistent with the provision in the ICE Certificate.

Definition of Member

Currently, the Limitation Provisions include lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE American, NYSE Arca, and NYSE National.²¹ Consistent with the ICE Certificate,²² the Exchange proposes to

replace such provisions with the defined term “Member,” or, in the case of the NYSE Holdings Operating Agreement, “Exchange Member,” defined to mean a person that is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²³

The Exchange believes that using “Member” or “Exchange Member” in place of the lists of categories of members and permit holders presently in the Governing Documents would simplify the Limitation Provisions, avoiding exchange-by-exchange descriptions of categories of members and permit holders without substantive change. Each of the categories listed—an ETP Holder, OTP Holder or OTP Firm of NYSE Arca, a “member” or “member organization” of the NYSE or NYSE American, or an ETP Holder of NYSE National—is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²⁴

The Exchange believes that the use of “Member” and the changes to remove the descriptions of categories of members and permit holders would be appropriate because it would align the Limitation Provisions more closely with the ICE Certificate, as well as voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.²⁵ The Exchange accordingly proposes the following changes:

- The definition of “Member” would be added to the ICE Holdings Certificate, Article V.A.8, and NYSE Group Certificate, Article IV, Section 4(b)(1)(F). Articles V.A.8 through 10 of the ICE Holdings Certificate would be renumbered accordingly.

- In the NYSE Holdings Operating Agreement, Article I, Section 1.1, the definition of “Exchange Member” would be added and the definitions of “MKT Member,” “NYSE Arca ETP Holder,” “NYSE Member,” “NYSE National ETP Holder,” “OTP Firm,” and “OTP Holder” would be deleted.

- In the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv), “an

NYSE Arca ETP Holder or an OTP Holder or OTP Firm” would be replaced with “a Member of any Exchange.”²⁶

Approval Requirements for Exceeding Voting and Concentration Limits

The Exchange proposes that, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, the amended Limitation Provisions require that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the various categories of Exchange membership. Accordingly, the Exchange proposes to make the following changes to ICE Holdings Certificate, Article V.A.3.c; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(C); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(y):

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the text “NYSE Arca, Inc. (‘NYSE Arca’) or NYSE Arca Equities, Inc. (‘NYSE Arca Equities’) or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (i) and (ii).

- In the provision of the NYSE Group Certificate, “the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (1) and (2).

- In all three provisions, the text “a Member (as defined below) of any Exchange” would replace the text from “an ETP Holder (as defined in the NYSE Arca Equities rules” through the end of the paragraph, with the exception that the NYSE Holdings text does not include “(as defined below).”

In addition, the Exchange proposes the following changes to the ICE Holdings Certificate, Article V.A.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(z):

- In all three provisions, the text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges,” with the exception that the NYSE Group text has the word “the” at its start. The text “a Member of any Exchange” would replace the text from “an NYSE Arca ETP Holder” through the end of the paragraph.

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the word “and” would be

¹⁹ See ICE Holdings Certificate, Art. V, Sec. A and B; NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a) and (b); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1) and (2).

²⁰ See ICE Certificate, Art. V, Sec. A and B, and 82 FR 25018, *supra* note 4, at 25020.

²¹ See ICE Holdings Certificate, Art. V, Sec. A(3)(c); NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a)(3)(c); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1)(A)(y).

²² See ICE Certificate, Art. V, Sec. A(3)(c) and (8).

²³ 15 U.S.C. 78c(a)(3)(A). NYSE Holdings uses “Exchange Member” because, as a limited liability company, it has a Member, which is ICE Holdings.

²⁴ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

²⁵ See Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (“CBOE Certificate”), Art. Sixth, Sec. (a)(ii)(C) and (b)(ii)(D) (“Trading Permit Holder”); Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., Article Ninth (a)(ii) (“Exchange Member”).

²⁶ See ICE Certificate, Art. V, Sec. B(3)(d).

added between (i) and (ii). In the provision of the NYSE Group Certificate, the word “and” would be added between clauses (1) and (2).

The Exchange proposes that the conditions relating to a person seeking approval to exceed the ownership concentration limitation be similarly amended. The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V.B.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(b)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv):

- The word “and” would be added immediately before the provisions.
- The text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “any Exchange,” with the exception that the NYSE Group text has the word “the” at its start.
- The text from “an NYSE Arca ETP Holder” through the end of the next three subparagraphs would be deleted and replaced with “a Member of any Exchange.”

Definition of Related Persons

Currently, the Limitation Provisions include lengthy definitions of “Related Persons.” The Exchange proposes to amend such definitions to eliminate the exchange-by-exchange description. Use of “Member” would permit a simplification, without substantive change, of the portion of the definition of the term “Related Persons” relating to members and trading permit holders. The revised definitions would be the same as the definition in the ICE Certificate, subject to differences in numbering and, in the NYSE Holdings Operating Agreement, certain terms.²⁷

The Exchange accordingly proposes the following changes to the definitions of “Related Persons” in the ICE Holdings Certificate, current Article V.A(9); NYSE Holdings Operating Agreement, Article I, Section 1.1; and NYSE Group Certificate, Article IV, Section 4(b)(1)(E):

- In the fourth subparagraph, the text “‘member organization’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any ‘member’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)” would be replaced with “Member, any Person.”
- In the fifth subparagraph, the text “an OTP Firm, any OTP Holder that is

associated with such Person” would be replaced with “a natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated.”

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, “and” would be added between the seventh and eighth subparagraphs. In the NYSE Group Certificate, “and” would be added between the eighth and ninth subparagraphs.

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, subparagraphs nine through 12 would be deleted. In the NYSE Group Certificate, subparagraphs six and ten through 12 would be deleted, and the provisions renumbered accordingly.

Confidential Information

The Exchange proposes to amend the confidential information provisions in the ICE Holdings Bylaws, NYSE Holdings Operating Agreement, and NYSE Group Certificate. The proposed amendments would make such Governing Documents more consistent with the confidential information provision in the ICE Bylaws.²⁸

Accordingly, in the ICE Holdings Bylaws, Article VIII, Section 8.3(b); NYSE Holdings Operating Agreement, Article XII, Section 12.3; and NYSE Group Certificate, Article X, the text “U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight” would be replaced with “Exchange.”²⁹

The proposed change would remove the provisions that allow any U.S. Regulated Subsidiary to inspect and copy the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the confidential information provisions would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. However, the proposed change would have no substantive effect, because pursuant to NYSE Arca Rule 3.12³⁰ NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, and NYSE Arca Equities no longer exists. The NYSE, NYSE American,

²⁸ See ICE Bylaws, Art. VIII. See also 82 FR 25018, *supra* note 4, at 25020.

²⁹ The text of the NYSE Group Certificate uses “Regulated Subsidiary” instead of “U.S. Regulated Subsidiary.”

³⁰ NYSE Arca Rule 3.12 provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca for purposes of and subject to oversight pursuant to the Exchange Act and subject to inspection and copying by NYSE Arca. See ICE Bylaws, Art. VIII, Sec. 8.3.

NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange proposes the following additional changes to the provisions:

- In the ICE Holdings Bylaws, Article VIII, Sections 8.1 and 8.2, and NYSE Holdings Operating Agreement, Article XII, Sections 12.1 and 12.2, “U.S. Subsidiaries’ Confidential Information” would be amended to “Exchange Confidential Information.”
- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “U.S. Subsidiaries’ Confidential Information” would be deleted and the definition of “Exchange Confidential Information” added.

Additional Proposed Changes to the Governing Documents

In addition to the above, the Exchange proposes that Article II of the ICE Holdings Certificate be updated to include the name and building of its registered office in the State of Delaware. In addition, conforming changes would be made to the title, recitals, date and signature line, as applicable, of the Governing Documents.

ICE Certificate

The Exchange proposes to make a non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate. Due to an oversight, the text of the ICE Certificate approved by the ICE shareholders at the ICE annual meeting omitted the word “respective” from Article V, Section A(3)(a).³¹ To conform the ICE Certificate filed with the Commission to the text approved by the shareholders, the Exchange proposes to delete the word “respective” from clause (i) of the provision, which would read as follows (proposed deletion in bracket):

will not impair the ability of any national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an “Exchange”), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an “Intermediate Holding Company”) or the Corporation to discharge their [respective] responsibilities under the Exchange Act and the rules and regulations thereunder. . . .

The Exchange does not propose to make any other changes to the ICE Certificate.

³¹ See Intercontinental Exchange, Inc. Notice of 2017 Annual Meeting and Proxy Statement, at page A-5, available at <https://ir.theice.com/~media/Files/1/Ice-IR/quarterly-results/2016/proxy-statement-2016.pdf>.

²⁷ See ICE Certificate, Art. V, Sec. A(10). NYSE Holdings uses “Interests of the Company” rather than “shares of stock of the Corporation.”

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act³² in general, and with Section 6(b)(1)³³ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references in the Governing Documents to entities that are not national securities exchanges. The Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”³⁴ Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the Governing Documents. The Exchange notes that the proposed change would align the Governing Documents voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.³⁵ In addition, it would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating obsolete references to NYSE Arca Equities, which has been merged out of existence.

As a result of the proposed use of “Exchanges” instead of “U.S. Regulated Subsidiaries,” the confidential information provisions of the Governing Documents would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and

records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, including that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. The proposed change would add further clarity and transparency to the Exchange’s rules without having a substantive effect, as, pursuant to NYSE Arca Rule 3.12, NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, NYSE Arca Equities no longer exists and the NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange believes that the proposed use in the Governing Documents of the defined term “Intermediate Holding Company” in place of lists of intermediate holding companies would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges without making a substantive change.

Similarly, the Exchange believes that the proposed use of the defined term “Member” in place of lists of categories of members and permit holders in the Limitation Provisions would simplify the provisions without substantive change, avoiding exchange-by-exchange descriptions of categories of members and permit holders, as each of the categories currently listed is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.³⁶ Such use of “Member,” along with the simplification of the definition of “Related Persons” in the Limitation Provisions, would add clarity and transparency to the Exchange’s rules as well as align the Limitation Provisions with the ICE Certificate voting and ownership concentration limits and with the voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.³⁷

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act³⁸ because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries, Regulated Subsidiaries, and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate; (2) using “Intermediate Holding Company” in place of lists of intermediate holding companies; (3) using “Member” in place of the lists of categories of members and permit holders in the Limitation Provisions; (4) simplifying the definition of “Related Persons” in the Limitation Provisions; (5) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries; and (6) making conforming changes to the Governing Documents, would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange’s rules and removing obsolete references, thereby ensuring that persons subject to the Exchange’s jurisdiction, regulators, and the investing public can more easily navigate and understand the Governing Documents.

The Exchange believes that the proposed amendments to the Governing Document provisions limiting claims against directors, officers and employees, as well as the relevant Intermediate Holding Company, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the ICE Certificate, as well as in the governing documents of other holding companies of national securities exchanges, which are substantially similar.³⁹

Finally, the Exchange believes that its proposed non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(1).

³⁴ 15 U.S.C. 78c(a)(1).

³⁵ See CBOE Certificate, Art. Fifth, Sec. (a)(v), and Art. Sixth, Sec. (a)(ii)(A) (“Regulated Securities Exchange Subsidiaries”); and Amended and Restated Certificate of Incorporation of Bats Global Markets Holdings, Inc., Art. Fifth, Sec. (2) (“Exchange Subsidiaries”).

³⁶ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

³⁷ See note 25, *supra*.

³⁸ 15 U.S.C. 78f(b)(5).

³⁹ See note 18, *supra*.

investors and the public interest because it would ensure that the ICE Certificate filed with the Commission conforms to the text approved by the ICE shareholders at the ICE annual meeting.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the Intermediate Holding Company governing documents to make them more consistent with the governing documents of ICE, their ultimate parent, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information.

The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

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 Act⁴⁰ and Rule 19b4(f)–(6) thereunder.⁴¹ 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) thereunder.⁴²

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)⁴³ 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–2017–125 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–2017–125. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2017–125 and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–25140 Filed 11–20–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82085; File No. SR–Phlx–2017–74]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Introduce the Intellicator Analytic Tool

November 15, 2017.

On September 20, 2017, Nasdaq PHLX LLC (“Phlx” 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 introduce the Intellicator Analytic Tool. The proposed rule change was published for comment in the **Federal Register** on October 4, 2017.³ The Commission has received one comment on the proposed rule change.⁴

⁴⁴ 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. 81754 (Sept. 28, 2017), 82 FR 46319 (Oct. 4, 2017).

⁴ See Letter from Ellen Greene, Managing Director, Financial Services Operations, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission, dated November 8, 2017, available at <https://>

⁴⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴¹ 17 CFR 240.19b–4(f)(6).

⁴² 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴³ 15 U.S.C. 78s(b)(2)(B).

Section 19(b)(2) of the Act⁵ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 18, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and comment received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates January 2, 2018 as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-Phlx-2017-74).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25142 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82084; File No. SR-NYSE-2017-05]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Governing Documents of Its Intermediate Parent Companies Intercontinental Exchange Holdings, Inc., NYSE Holdings LLC and NYSE Group, Inc. To Make Them More Consistent With the Governing Documents of Their Ultimate Parent Intercontinental Exchange, Inc.

November 15, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the

www.sec.gov/comments/sr-phlx-2017-74/phlx201774-2676231-161460.pdf.

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

“Act” or “Exchange Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on November 3, 2017, NYSE National, Inc. (the “Exchange” or “NYSE National”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to to [sic] amend the governing documents of its intermediate parent companies Intercontinental Exchange Holdings, Inc. (“ICE Holdings”), NYSE Holdings LLC (“NYSE Holdings”), and NYSE Group, Inc. (“NYSE Group”) to make them more consistent with the governing documents of their ultimate parent Intercontinental Exchange, Inc. (“ICE”), including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the governing documents of its intermediate parent companies ICE Holdings, NYSE Holdings, and NYSE Group (together, the “Intermediate Holding Companies”) to make them more consistent with the ICE governing documents, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation.

More specifically, the Exchange proposes to amend the following documents (collectively, the “Governing Documents”):

- Eighth Amended and Restated Certificate of Incorporation of ICE Holdings (“ICE Holdings Certificate”) and Fifth Amended and Restated Bylaws of ICE Holdings (“ICE Holdings Bylaws”);
- Eighth Amended and Restated Limited Liability Company Agreement of NYSE Holdings (“NYSE Holdings Operating Agreement”); and
- Fifth Amended and Restated Certificate of Incorporation of NYSE Group (“NYSE Group Certificate”) and Third Amended and Restated Bylaws of NYSE Group (“NYSE Group Bylaws”).

As discussed below, the proposed changes to the Governing Documents would make the relevant provisions more consistent with the Fourth Amended and Restated Certificate of Incorporation of ICE (“ICE Certificate”) and Eighth Amended and Restated Bylaws of ICE (“ICE Bylaws”).⁴

ICE, the ultimate parent of the Exchange, owns 100% of the equity interest in ICE Holdings, which in turn owns 100% of the equity interest in NYSE Holdings. NYSE Holdings owns 100% of the equity interest of NYSE Group, which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (“NYSE”), NYSE Arca,

⁴ See Securities Exchange Act Release No. 80752 (May 24, 2017), 82 FR 25018 (May 31, 2017) (SR-NYSE-2017-13; SR-NYSEArca-2017-29; SR-NYSEMKT-2017-17; SR-NYSE-2017-01). ICE is a publicly traded company listed on the NYSE.

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Inc. (“NYSE Arca”), and NYSE American LLC (“NYSE American”).⁵

In addition, the Exchange proposes to make a nonsubstantive change to the ICE Certificate.

Definition of Exchange

With the exception of the NYSE Group Bylaws, the Governing Documents define “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” and, in the case of the NYSE Group Certificate, “Regulated Subsidiary” and “Regulated Subsidiaries” to mean, individually or collectively, the four national securities exchanges owned by ICE (the NYSE, NYSE American, NYSE Arca, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (“NYSE Arca Equities”), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the relevant Intermediate Holding Company. The NYSE Group Bylaws list the relevant entities rather than use a defined term.

Unlike the Governing Documents, the ICE Certificate and ICE Bylaws use the defined term “Exchange” or “Exchanges” instead of “U.S. Regulated Subsidiary” or “U.S. Regulated Subsidiaries.”⁶ “Exchange” is defined as a national securities exchange registered under Section 6 of the Exchange Act⁷ that is directly or indirectly controlled by ICE.⁸ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the terms “Exchange” instead of “U.S. Regulated Subsidiary” or “Regulated Subsidiary.” Similarly, the Exchange proposes to use “Exchange” or “Exchanges,” as applicable, in place of “U.S. Regulated Subsidiaries” or “Regulated Subsidiaries,” and to use “Exchange” or “Exchanges,” as applicable, instead of lists of specific entities.

As a result of the proposed change, the Governing Documents would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. The Exchange believes omitting references to NYSE Arca, LLC, a subsidiary of NYSE Group, is appropriate because the Exchange Act definition of “exchange” states that “exchange” “includes the

market place and the market facilities maintained by such exchange.”⁹ NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets. The references to NYSE Arca Equities are obsolete, as it has been merged out of existence.¹⁰

The Exchange accordingly proposes the following changes:

- In the ICE Holdings Certificate, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article V, Section A.10 would be deleted, and the definition of “Exchange” added to Article V, Section A(1).¹¹ In the ICE Holdings Bylaws, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article III, Section 3.15 would be deleted, and in the NYSE Group Certificate, the definitions of “Regulated Subsidiary” and “Regulated Subsidiaries” in Article IV, Section 4(b)(1)(A) would be deleted, and the definition of “Exchange” added in the deleted definitions’ place.

- In Article 1, Section 1.1 of the NYSE Holdings Operating Agreement, the definitions of “New York Stock Exchange,” “NYSE Arca,” “NYSE Arca Equities,” “NYSE MKT,” “NYSE National,” “U.S. Regulated Subsidiary,” and “U.S. Regulated Subsidiaries” would be deleted and the definition of “Exchange” added.

- In the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(w), the text “of the Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation,” would be replaced with “Exchange,” and “the Regulated Subsidiaries” would be replaced with “each Exchange.”

- In the NYSE Group Bylaws, the list of national securities exchanges, NYSE Arca, LLC, NYSE Arca Equities and their successors in Article VII, Section 7.9(b) would be replaced with the definition of “Exchange.”

Throughout the Governing Documents, “U.S. Regulated Subsidiary,” “U.S. Regulated Subsidiary’s,” “U.S. Regulated Subsidiaries,” “Regulated Subsidiary,” “Regulated Subsidiary’s,” and “Regulated Subsidiaries” would be replaced with “Exchange,” “Exchange’s,” or “Exchanges,” as applicable. Similarly, lists of any or all

of the ICE national securities exchanges, NYSE Arca Equities, NYSE Arca, LLC, their successors, facilities, or the boards of directors of successors, would be replaced with “Exchange” or “Exchanges,” as applicable.¹²

When making such replacements, the Exchange would utilize a comma or the terms “any,” “each,” “an,” or “one or more” and delete the terms “the” or “of the” as necessary to integrate the term into the text. Finally, references to “their” would be amended to “its” as required by the context.¹³

Definition of Intermediate Holding Companies

The ICE Holdings and NYSE Holdings Governing Documents reference NYSE Holdings and NYSE Group by name.¹⁴ The ICE Certificate and ICE Bylaws use the defined term “Intermediate Holding Companies” instead, defining an “Intermediate Holding Company” as “any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange.”¹⁵ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the term “Intermediate Holding Companies” instead of specific names.

The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V, Section A(3)(a); ICE Holdings Bylaws, Article III, Section 3.14(a)(2); and NYSE Holdings Operating Agreement:

- In these ICE Holdings Governing Document provisions, the initial references to NYSE Holdings or NYSE Group, including the text “(if and to the extent that NYSE Group continues to exist as a separate entity),” would be replaced with the definition of “Intermediate Holding Company.”¹⁶

¹² For example, in Article XII, clause (b) of the NYSE Group Certificate, “the boards of directors of New York Stock Exchange, NYSE Arca, NYSE Arca Equities, NYSE MKT and NYSE National or the boards of directors of their successors” would be amended to “the boards of directors of each Exchange.”

¹³ For example, in Article III, Section 3.14(b) of the ICE Holdings Bylaws and Article III, Section 3.12(c) of the NYSE Holdings Operating Agreement, “their regulatory authority” would be amended to “its regulatory authority.”

¹⁴ The NYSE Group Governing Documents do not make such references because there are no Intermediate Holding Companies between NYSE Group and the Exchange or its national securities exchange affiliates.

¹⁵ See ICE Certificate, Art. V, Sec. A.3(a); ICE Bylaws, Art. III, Sec. 3.14(a)(2); and 82 FR 25018, *supra* note 4, at 25019. The Intermediate Holding Companies between ICE and the Exchange are ICE Holdings, NYSE Holdings, and NYSE Group.

¹⁶ In the ICE Holdings Certificate, the word “respective” also would be deleted.

⁵ The Exchange’s affiliates NYSE, NYSE American (previously NYSE MKT LLC), and NYSE Arca have each submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2017-57, SR-NYSEAmer-2017-29, and SR-NYSEArca-2017-125.

⁶ See 82 FR 25018, *supra* note 4, at 25019–25020.

⁷ 15 U.S.C. 78f.

⁸ See ICE Certificate, Art. V Sec. A(3)(a), and ICE Bylaws, Art. III, Sec. 3.15.

⁹ 15 U.S.C. 78c(a)(1).

¹⁰ See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR-NYSEArca-2017-40).

¹¹ The definition of “Exchange” would replace “any U.S. Regulated Subsidiary (as defined below)” in Art. V, Sec. A(1).

The additional references to NYSE Holdings or NYSE Group would be replaced with the terms “Intermediate Holding Company” and “Intermediate Holding Companies,” as applicable.

- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “NYSE Group” would be deleted and the definition of “Intermediate Holding Company” added, and in Article III, Section 3.12(b)(2) and Article IX, Section 9.1(a)(3)(A) and (b)(3)(A), references to “NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)” would be replaced with “Intermediate Holding Companies” or “Intermediate Holding Company,” as applicable.

Considerations of the Board

The ICE Holdings Bylaws, NYSE Holdings Agreement, and NYSE Group Certificate have provisions setting forth considerations directors must take into account in discharging their responsibilities.¹⁷ Each such provision limits claims against directors, officers and employees as well as the relevant Intermediate Holding Company. The Exchange proposes to amend such provisions to substantially conform them to the analogous provision in the ICE Bylaws, as well as the governing documents of other holding companies of national securities exchanges, which are substantially similar.¹⁸

The Exchange accordingly proposes the following changes to the ICE Holdings Bylaws, Article III, Section 3.14(c); NYSE Group Certificate, Article V, Section 8; and NYSE Holdings Operating Agreement, Section 3.12(d):

- The ICE Holdings Bylaws and NYSE Group Certificate provisions would be expanded in scope to apply to any “past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as directors, officers and employees. To implement the change, the Exchange proposes to amend the final sentences of the ICE Holdings Bylaws and NYSE Group Certificate provisions as follows (deletions [bracketed], additions *italicized*):

¹⁷ See ICE Holdings Bylaws, Art. III, Sec. 3.14; NYSE Holdings Agreement, Art. III, Sec. 3.12; and NYSE Group Certificate Art. V, Sec. 8.

¹⁸ See ICE Bylaws, Art. III, Sec. 3.14(c); Amended and Restated Bylaws of Bats Global Markets Holdings, Inc., Art. VII, Sec. 7.2; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Art. 4, Sec. 4.12; Bylaws of IEX Group, Inc., Art. VII, Sec. 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Art. VII, Sec. 1.

No *past or present stockholder*, employee, [former employee,] beneficiary, *agent*, customer, creditor, community or regulatory authority or member thereof *or other person or entity* shall have any rights against any director, officer, [or] employee *or agent* of the Corporation or the Corporation under this Section

- The NYSE Holdings Operating Agreement provision would be expanded in scope to apply to any “past or present Manager, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as Managers, officers and employees. To implement the change, the Exchange proposes to amend the final sentence of the provision as follows (deletions [bracketed], additions *italicized*):

No *past or present Manager*, employee, [former employee,] beneficiary, *agent*, customer, creditor, community or regulatory authority or member thereof *or other person or entity* shall have any rights against any Manager, officer, [or] employee *or agent* of the Company or the Company under Section 3.12.

Limitations on Voting and Ownership

The ICE Holdings Certificate, NYSE Holdings Operating Agreement, and NYSE Group Certificate have provisions that establish voting and ownership concentration limitations on owners of their respective common stock above certain thresholds, which apply for so long as the relevant Intermediate Holding Company owns any U.S. Regulated Subsidiary (the “Limitation Provisions”).¹⁹ Such provisions authorize the relevant entity’s Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations.

The ICE Certificate has a similar voting and ownership concentration limitation provision.²⁰ The Exchange proposes to amend the Limitations Provisions to make them more consistent with the provision in the ICE Certificate.

Definition of Member

Currently, the Limitation Provisions include lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE American, NYSE Arca, and NYSE National.²¹ Consistent with the ICE

¹⁹ See ICE Holdings Certificate, Art. V, Sec. A and B; NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a) and (b); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1) and (2).

²⁰ See ICE Certificate, Art. V, Sec. A and B, and 82 FR 25018, *supra* note 4, at 25020.

²¹ See ICE Holdings Certificate, Art. V, Sec. A(3)(c); NYSE Holdings Operating Agreement, Art.

Certificate,²² the Exchange proposes to replace such provisions with the defined term “Member,” or, in the case of the NYSE Holdings Operating Agreement, “Exchange Member,” defined to mean a person that is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²³

The Exchange believes that using “Member” or “Exchange Member” in place of the lists of categories of members and permit holders presently in the Governing Documents would simplify the Limitation Provisions, avoiding exchange-by-exchange descriptions of categories of members and permit holders without substantive change. Each of the categories listed—an ETP Holder, OTP Holder or OTP Firm of NYSE Arca, a “member” or “member organization” of the NYSE or NYSE American, or an ETP Holder of NYSE National—is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²⁴

The Exchange believes that the use of “Member” and the changes to remove the descriptions of categories of members and permit holders would be appropriate because it would align the Limitation Provisions more closely with the ICE Certificate, as well as voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.²⁵ The Exchange accordingly proposes the following changes:

- The definition of “Member” would be added to the ICE Holdings Certificate, Article V.A.8, and NYSE Group Certificate, Article IV, Section 4(b)(1)(F). Articles V.A.8 through 10 of the ICE Holdings Certificate would be renumbered accordingly.

- In the NYSE Holdings Operating Agreement, Article I, Section 1.1, the definition of “Exchange Member” would be added and the definitions of “MKT Member,” “NYSE Arca ETP Holder,” “NYSE Member,” “NYSE

IX, Sec. 9.1(a)(3)(c); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1)(A)(y).

²² See ICE Certificate, Art. V, Sec. A(3)(c) and (8).

²³ 15 U.S.C. 78c(a)(3)(A). NYSE Holdings uses “Exchange Member” because, as a limited liability company, it has a Member, which is ICE Holdings.

²⁴ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

²⁵ See Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (“CBOE Certificate”), Art. Sixth, Sec. (a)(ii)(C) and (b)(ii)(D) (“Trading Permit Holder”); Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., Article Ninth (a)(ii) (“Exchange Member”).

National ETP Holder,” “OTP Firm,” and “OTP Holder” would be deleted.

- In the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv), “an NYSE Arca ETP Holder or an OTP Holder or OTP Firm” would be replaced with “a Member of any Exchange.”²⁶

Approval Requirements for Exceeding Voting and Concentration Limits

The Exchange proposes that, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, the amended Limitation Provisions require that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the various categories of Exchange membership. Accordingly, the Exchange proposes to make the following changes to ICE Holdings Certificate, Article V.A.3.c; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(C); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(y):

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the text “NYSE Arca, Inc. (‘NYSE Arca’) or NYSE Arca Equities, Inc. (‘NYSE Arca Equities’) or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (i) and (ii).

- In the provision of the NYSE Group Certificate, “the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (1) and (2).

- In all three provisions, the text “a Member (as defined below) of any Exchange” would replace the text from “an ETP Holder (as defined in the NYSE Arca Equities rules” through the end of the paragraph, with the exception that the NYSE Holdings text does not include “(as defined below).”

In addition, the Exchange proposes the following changes to the ICE Holdings Certificate, Article V.A.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(z):

- In all three provisions, the text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges,” with the exception that the NYSE Group text has the word “the” at its start. The text “a Member of any Exchange” would replace the text from “an NYSE Arca

ETP Holder” through the end of the paragraph.

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the word “and” would be added between (i) and (ii). In the provision of the NYSE Group Certificate, the word “and” would be added between clauses (1) and (2).

The Exchange proposes that the conditions relating to a person seeking approval to exceed the ownership concentration limitation be similarly amended. The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V.B.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(b)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv):

- The word “and” would be added immediately before the provisions.
- The text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “any Exchange,” with the exception that the NYSE Group text has the word “the” at its start.
- The text from “an NYSE Arca ETP Holder” through the end of the next three subparagraphs would be deleted and replaced with “a Member of any Exchange.”

Definition of Related Persons

Currently, the Limitation Provisions include lengthy definitions of “Related Persons.” The Exchange proposes to amend such definitions to eliminate the exchange-by-exchange description. Use of “Member” would permit a simplification, without substantive change, of the portion of the definition of the term “Related Persons” relating to members and trading permit holders. The revised definitions would be the same as the definition in the ICE Certificate, subject to differences in numbering and, in the NYSE Holdings Operating Agreement, certain terms.²⁷

The Exchange accordingly proposes the following changes to the definitions of “Related Persons” in the ICE Holdings Certificate, current Article V.A(9); NYSE Holdings Operating Agreement, Article I, Section 1.1; and NYSE Group Certificate, Article IV, Section 4(b)(1)(E):

- In the fourth subparagraph, the text “‘member organization’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any ‘member’ (as defined in the rules of New York Stock Exchange, as

such rules may be in effect from time to time)” would be replaced with “Member, any Person.”

- In the fifth subparagraph, the text “an OTP Firm, any OTP Holder that is associated with such Person” would be replaced with “a natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated.”

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, “and” would be added between the seventh and eighth subparagraphs. In the NYSE Group Certificate, “and” would be added between the eighth and ninth subparagraphs.

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, subparagraphs nine through 12 would be deleted. In the NYSE Group Certificate, subparagraphs six and ten through 12 would be deleted, and the provisions renumbered accordingly.

Confidential Information

The Exchange proposes to amend the confidential information provisions in the ICE Holdings Bylaws, NYSE Holdings Operating Agreement, and NYSE Group Certificate. The proposed amendments would make such Governing Documents more consistent with the confidential information provision in the ICE Bylaws.²⁸

Accordingly, in the ICE Holdings Bylaws, Article VIII, Section 8.3(b); NYSE Holdings Operating Agreement, Article XII, Section 12.3; and NYSE Group Certificate, Article X, the text “U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight” would be replaced with “Exchange.”²⁹

The proposed change would remove the provisions that allow any U.S. Regulated Subsidiary to inspect and copy the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the confidential information provisions would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. However, the proposed change would have no substantive effect, because pursuant to NYSE Arca Rule 3.12³⁰ NYSE Arca

²⁸ See ICE Bylaws, Art. VIII. See also 82 FR 25018, *supra* note 4, at 25020.

²⁹ The text of the NYSE Group Certificate uses “Regulated Subsidiary” instead of “U.S. Regulated Subsidiary.”

³⁰ NYSE Arca Rule 3.12 provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca for purposes of and subject to oversight

²⁶ See ICE Certificate, Art. V, Sec. B(3)(d).

²⁷ See ICE Certificate, Art. V, Sec. A(10). NYSE Holdings uses “Interests of the Company” rather than “shares of stock of the Corporation.”

would retain its authority over the books and records of NYSE Arca, LLC, and NYSE Arca Equities no longer exists. The NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange proposes the following additional changes to the provisions:

- In the ICE Holdings Bylaws, Article VIII, Sections 8.1 and 8.2, and NYSE Holdings Operating Agreement, Article XII, Sections 12.1 and 12.2, “U.S. Subsidiaries’ Confidential Information” would be amended to “Exchange Confidential Information.”

- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “U.S. Subsidiaries’ Confidential Information” would be deleted and the definition of “Exchange Confidential Information” added.

Additional Proposed Changes to the Governing Documents

In addition to the above, the Exchange proposes that Article II of the ICE Holdings Certificate be updated to include the name and building of its registered office in the State of Delaware. In addition, conforming changes would be made to the title, recitals, date and signature line, as applicable, of the Governing Documents.

ICE Certificate

The Exchange proposes to make a non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate. Due to an oversight, the text of the ICE Certificate approved by the ICE shareholders at the ICE annual meeting omitted the word “respective” from Article V, Section A(3)(a).³¹ To conform the ICE Certificate filed with the Commission to the text approved by the shareholders, the Exchange proposes to delete the word “respective” from clause (i) of the provision, which would read as follows (proposed deletion in bracket):

will not impair the ability of any national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an “Exchange”), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an “Intermediate Holding

pursuant to the Exchange Act and subject to inspection and copying by NYSE Arca. See ICE Bylaws, Art. VIII, Sec. 8.3.

³¹ See Intercontinental Exchange, Inc. Notice of 2017 Annual Meeting and Proxy Statement, at page A-5, available at <https://ir.theice.com/~media/Files/1/ice-IR/quarterly-results/2016/proxy-statement-2016.pdf>.

Company”) or the Corporation to discharge their [respective] responsibilities under the Exchange Act and the rules and regulations thereunder

The Exchange does not propose to make any other changes to the ICE Certificate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act³² in general, and with Section 6(b)(1)³³ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references in the Governing Documents to entities that are not national securities exchanges. The Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”³⁴ Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the Governing Documents. The Exchange notes that the proposed change would align the Governing Documents voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.³⁵ In addition, it would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating obsolete

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(1).

³⁴ 15 U.S.C. 78c(a)(1).

³⁵ See CBOE Certificate, Art. Fifth, Sec. (a)(v), and Art. Sixth, Sec. (a)(ii)(A) (“Regulated Securities Exchange Subsidiaries”); and Amended and Restated Certificate of Incorporation of Bats Global Markets Holdings, Inc., Art. Fifth, Sec. (2) (“Exchange Subsidiaries”).

references to NYSE Arca Equities, which has been merged out of existence.

As a result of the proposed use of “Exchanges” instead of “U.S. Regulated Subsidiaries,” the confidential information provisions of the Governing Documents would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, including that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. The proposed change would add further clarity and transparency to the Exchange’s rules without having a substantive effect, as, pursuant to NYSE Arca Rule 3.12, NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, NYSE Arca Equities no longer exists and the NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange believes that the proposed use in the Governing Documents of the defined term “Intermediate Holding Company” in place of lists of intermediate holding companies would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges without making a substantive change.

Similarly, the Exchange believes that the proposed use of the defined term “Member” in place of lists of categories of members and permit holders in the Limitation Provisions would simplify the provisions without substantive change, avoiding exchange-by-exchange descriptions of categories of members and permit holders, as each of the categories currently listed is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.³⁶ Such use of “Member,” along with the simplification of the definition of “Related Persons” in the Limitation Provisions, would add clarity and transparency to the Exchange’s rules as well as align the Limitation Provisions with the ICE Certificate voting and ownership concentration limits and with the voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which

³⁶ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

use a similar description of membership.³⁷

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act³⁸ because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries, Regulated Subsidiaries, and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate; (2) using “Intermediate Holding Company” in place of lists of intermediate holding companies; (3) using “Member” in place of the lists of categories of members and permit holders in the Limitation Provisions; (4) simplifying the definition of “Related Persons” in the Limitation Provisions; (5) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries; and (6) making conforming changes to the Governing Documents, would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange’s rules and removing obsolete references, thereby ensuring that persons subject to the Exchange’s jurisdiction, regulators, and the investing public can more easily navigate and understand the Governing Documents.

The Exchange believes that the proposed amendments to the Governing Document provisions limiting claims against directors, officers and employees, as well as the relevant Intermediate Holding Company, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the ICE Certificate, as well as in the governing

documents of other holding companies of national securities exchanges, which are substantially similar.³⁹

Finally, the Exchange believes that its proposed non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate would 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 because it would ensure that the ICE Certificate filed with the Commission conforms to the text approved by the ICE shareholders at the ICE annual meeting.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the Intermediate Holding Company governing documents to make them more consistent with the governing documents of ICE, their ultimate parent, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information.

The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

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 Act⁴⁰ and Rule 19b-4(f)(6) thereunder.⁴¹ 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) thereunder.⁴²

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)⁴³ 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-NYSENAT-2017-05 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-NYSENAT-2017-05. 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

⁴² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴³ 15 U.S.C. 78s(b)(2)(B).

³⁷ See note 25, *supra*.

³⁸ 15 U.S.C. 78f(b)(5).

³⁹ See note 18, *supra*.

⁴⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴¹ 17 CFR 240.19b-4(f)(6).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-NAT-2017-05 and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25141 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82082; File No. SR-NYSEAMER-2017-29]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Governing Documents of Its Intermediate Parent Companies Intercontinental Exchange Holdings, Inc., NYSE Holdings LLC and NYSE Group, Inc. To Make Them More Consistent With the Governing Documents of Their Ultimate Parent Intercontinental Exchange, Inc.

November 15, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act")² and Rule 19b-4 thereunder,³ notice is hereby

given that on November 3, 2017, NYSE American LLC (the "Exchange" or "NYSE American") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the governing documents of its intermediate parent companies Intercontinental Exchange Holdings, Inc. ("ICE Holdings"), NYSE Holdings LLC ("NYSE Holdings"), and NYSE Group, Inc. ("NYSE Group") to make them more consistent with the governing documents of their ultimate parent Intercontinental Exchange, Inc. ("ICE"), including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the governing documents of its intermediate parent companies ICE Holdings, NYSE

Holdings, and NYSE Group (together, the "Intermediate Holding Companies") to make them more consistent with the ICE governing documents, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation.

More specifically, the Exchange proposes to amend the following documents (collectively, the "Governing Documents"):

- Eighth Amended and Restated Certificate of Incorporation of ICE Holdings ("ICE Holdings Certificate") and Fifth Amended and Restated Bylaws of ICE Holdings ("ICE Holdings Bylaws");
- Eighth Amended and Restated Limited Liability Company Agreement of NYSE Holdings ("NYSE Holdings Operating Agreement"); and
- Fifth Amended and Restated Certificate of Incorporation of NYSE Group ("NYSE Group Certificate") and Third Amended and Restated Bylaws of NYSE Group ("NYSE Group Bylaws").

As discussed below, the proposed changes to the Governing Documents would make the relevant provisions more consistent with the Fourth Amended and Restated Certificate of Incorporation of ICE ("ICE Certificate") and Eighth Amended and Restated Bylaws of ICE ("ICE Bylaws").⁴

ICE, the ultimate parent of the Exchange, owns 100% of the equity interest in ICE Holdings, which in turn owns 100% of the equity interest in NYSE Holdings. NYSE Holdings owns 100% of the equity interest of NYSE Group, which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca") and NYSE National, Inc. ("NYSE National").⁵

In addition, the Exchange proposes to make a nonsubstantive change to the ICE Certificate.

⁴ See Securities Exchange Act Release No. 80752 (May 24, 2017), 82 FR 25018 (May 31, 2017) (SR-NYSE-2017-13; SR-NYSEArca-2017-29; SR-NYSEMKT-2017-17; SR-NYSE-NAT-2017-01). ICE is a publicly traded company listed on the NYSE.

⁵ The Exchange's affiliates NYSE, NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2017-57, SR-NYSEArca-2017-125, and SR-NYSE-NAT-2017-05. NYSE American was previously NYSE MKT LLC.

⁴⁴ 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.

Definition of Exchange

With the exception of the NYSE Group Bylaws, the Governing Documents define “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” and, in the case of the NYSE Group Certificate, “Regulated Subsidiary” and “Regulated Subsidiaries” to mean, individually or collectively, the four national securities exchanges owned by ICE (the NYSE, NYSE American, NYSE Arca, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (“NYSE Arca Equities”), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the relevant Intermediate Holding Company. The NYSE Group Bylaws list the relevant entities rather than use a defined term.

Unlike the Governing Documents, the ICE Certificate and ICE Bylaws use the defined term “Exchange” or “Exchanges” instead of “U.S. Regulated Subsidiary” or “U.S. Regulated Subsidiaries.”⁶ “Exchange” is defined as a national securities exchange registered under Section 6 of the Exchange Act⁷ that is directly or indirectly controlled by ICE.⁸ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the terms “Exchange” instead of “U.S. Regulated Subsidiary” or “Regulated Subsidiary.” Similarly, the Exchange proposes to use “Exchange” or “Exchanges,” as applicable, in place of “U.S. Regulated Subsidiaries” or “Regulated Subsidiaries,” and to use “Exchange” or “Exchanges,” as applicable, instead of lists of specific entities.

As a result of the proposed change, the Governing Documents would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. The Exchange believes omitting references to NYSE Arca, LLC, a subsidiary of NYSE Group, is appropriate because the Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”⁹ NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets. The references to NYSE Arca Equities are

obsolete, as it has been merged out of existence.¹⁰

The Exchange accordingly proposes the following changes:

- In the ICE Holdings Certificate, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article V, Section A.10 would be deleted, and the definition of “Exchange” added to Article V, Section A(1).¹¹ In the ICE Holdings Bylaws, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article III, Section 3.15 would be deleted, and in the NYSE Group Certificate, the definitions of “Regulated Subsidiary” and “Regulated Subsidiaries” in Article IV, Section 4(b)(1)(A) would be deleted, and the definition of “Exchange” added in the deleted definitions’ place.
- In Article 1, Section 1.1 of the NYSE Holdings Operating Agreement, the definitions of “New York Stock Exchange,” “NYSE Arca,” “NYSE Arca Equities,” “NYSE MKT,” “NYSE National,” “U.S. Regulated Subsidiary,” and “U.S. Regulated Subsidiaries” would be deleted and the definition of “Exchange” added.
- In the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(w), the text “of the Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation,” would be replaced with “Exchange,” and “the Regulated Subsidiaries” would be replaced with “each Exchange.”
- In the NYSE Group Bylaws, the list of national securities exchanges, NYSE Arca, LLC, NYSE Arca Equities and their successors in Article VII, Section 7.9(b) would be replaced with the definition of “Exchange.”

Throughout the Governing Documents, “U.S. Regulated Subsidiary,” “U.S. Regulated Subsidiaries,” “U.S. Regulated Subsidiary’s,” “Regulated Subsidiary,” “Regulated Subsidiary’s,” and “Regulated Subsidiaries” would be replaced with “Exchange,” “Exchange’s,” or “Exchanges,” as applicable. Similarly, lists of any or all of the ICE national securities exchanges, NYSE Arca Equities, NYSE Arca, LLC, their successors, facilities, or the boards of directors of successors, would be replaced with “Exchange” or “Exchanges,” as applicable.¹²

When making such replacements, the Exchange would utilize a comma or the

¹⁰ See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR-NYSEArca-2017-40).

¹¹ The definition of “Exchange” would replace “any U.S. Regulated Subsidiary (as defined below)” in Art. V, Sec. A(1).

¹² For example, in Article XII, clause (b) of the NYSE Group Certificate, “the boards of directors of New York Stock Exchange, NYSE Arca, NYSE Arca Equities, NYSE MKT and NYSE National or the boards of directors of their successors” would be amended to “the boards of directors of each Exchange.”

terms “any,” “each,” “an,” or “one or more” and delete the terms “the” or “of the” as necessary to integrate the term into the text. Finally, references to “their” would be amended to “its” as required by the context.¹³

Definition of Intermediate Holding Companies

The ICE Holdings and NYSE Holdings Governing Documents reference NYSE Holdings and NYSE Group by name.¹⁴ The ICE Certificate and ICE Bylaws use the defined term “Intermediate Holding Companies” instead, defining an “Intermediate Holding Company” as “any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange.”¹⁵ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the term “Intermediate Holding Companies” instead of specific names.

The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V, Section A(3)(a); ICE Holdings Bylaws, Article III, Section 3.14(a)(2); and NYSE Holdings Operating Agreement:

- In these ICE Holdings Governing Document provisions, the initial references to NYSE Holdings or NYSE Group, including the text “(if and to the extent that NYSE Group continues to exist as a separate entity),” would be replaced with the definition of “Intermediate Holding Company.”¹⁶ The additional references to NYSE Holdings or NYSE Group would be replaced with the terms “Intermediate Holding Company” and “Intermediate Holding Companies,” as applicable.
- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “NYSE Group” would be deleted and the definition of “Intermediate Holding Company” added, and in Article III, Section 3.12(b)(2) and Article IX, Section 9.1(a)(3)(A) and (b)(3)(A), references to “NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)” would be replaced with “Intermediate Holding Companies” or “Intermediate Holding Company,” as applicable.

¹³ For example, in Article III, Section 3.14(b) of the ICE Holdings Bylaws and Article III, Section 3.12(c) of the NYSE Holdings Operating Agreement, “their regulatory authority” would be amended to “its regulatory authority.”

¹⁴ The NYSE Group Governing Documents do not make such references because there are no Intermediate Holding Companies between NYSE Group and the Exchange or its national securities exchange affiliates.

¹⁵ See ICE Certificate, Art. V, Sec. A.3(a); ICE Bylaws, Art. III, Sec. 3.14(a)(2); and 82 FR 25018, *supra* note 4, at 25019. The Intermediate Holding Companies between ICE and the Exchange are ICE Holdings, NYSE Holdings, and NYSE Group.

¹⁶ In the ICE Holdings Certificate, the word “respective” also would be deleted.

⁶ See 82 FR 25018, *supra* note 4, at 25019–25020.

⁷ 15 U.S.C. 78f.

⁸ See ICE Certificate, Art. V Sec. A(3)(a), and ICE Bylaws, Art. III, Sec. 3.15.

⁹ 15 U.S.C. 78c(a)(1).

Considerations of the Board

The ICE Holdings Bylaws, NYSE Holdings Agreement, and NYSE Group Certificate have provisions setting forth considerations directors must take into account in discharging their responsibilities.¹⁷ Each such provision limits claims against directors, officers and employees as well as the relevant Intermediate Holding Company. The Exchange proposes to amend such provisions to substantially conform them to the analogous provision in the ICE Bylaws, as well as the governing documents of other holding companies of national securities exchanges, which are substantially similar.¹⁸

The Exchange accordingly proposes the following changes to the ICE Holdings Bylaws, Article III, Section 3.14(c); NYSE Group Certificate, Article V, Section 8; and NYSE Holdings Operating Agreement, Section 3.12(d):

- The ICE Holdings Bylaws and NYSE Group Certificate provisions would be expanded in scope to apply to any “past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as directors, officers and employees. To implement the change, the Exchange proposes to amend the final sentences of the ICE Holdings Bylaws and NYSE Group Certificate provisions as follows (deletions [bracketed], additions *italicized*):

No *past or present stockholder*, employee, [former employee,] beneficiary, *agent*, customer, creditor, community or regulatory authority or member thereof *or other person or entity* shall have any rights against any director, officer, [or] employee *or agent* of the Corporation or the Corporation under this Section. . . .

- The NYSE Holdings Operating Agreement provision would be expanded in scope to apply to any “past or present Manager, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as Managers, officers and employees. To implement the change, the Exchange proposes to amend the final sentence of

the provision as follows (deletions [bracketed], additions *italicized*):

No *past or present Manager*, employee, [former employee,] beneficiary, *agent*, customer, creditor, community or regulatory authority or member thereof *or other person or entity* shall have any rights against any Manager, officer, [or] employee *or agent* of the Company or the Company under Section 3.12.

Limitations on Voting and Ownership

The ICE Holdings Certificate, NYSE Holdings Operating Agreement, and NYSE Group Certificate have provisions that establish voting and ownership concentration limitations on owners of their respective common stock above certain thresholds, which apply for so long as the relevant Intermediate Holding Company owns any U.S. Regulated Subsidiary (the “Limitation Provisions”).¹⁹ Such provisions authorize the relevant entity’s Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations.

The ICE Certificate has a similar voting and ownership concentration limitation provision.²⁰ The Exchange proposes to amend the Limitations Provisions to make them more consistent with the provision in the ICE Certificate.

Definition of Member

Currently, the Limitation Provisions include lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE American, NYSE Arca, and NYSE National.²¹ Consistent with the ICE Certificate,²² the Exchange proposes to replace such provisions with the defined term “Member,” or, in the case of the NYSE Holdings Operating Agreement, “Exchange Member,” defined to mean a person that is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²³

The Exchange believes that using “Member” or “Exchange Member” in place of the lists of categories of members and permit holders presently

in the Governing Documents would simplify the Limitation Provisions, avoiding exchange-by-exchange descriptions of categories of members and permit holders without substantive change. Each of the categories listed—an ETP Holder, OTP Holder or OTP Firm of NYSE Arca, a “member” or “member organization” of the NYSE or NYSE American, or an ETP Holder of NYSE National—is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²⁴

The Exchange believes that the use of “Member” and the changes to remove the descriptions of categories of members and permit holders would be appropriate because it would align the Limitation Provisions more closely with the ICE Certificate, as well as voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.²⁵ The Exchange accordingly proposes the following changes:

- The definition of “Member” would be added to the ICE Holdings Certificate, Article V.A.8, and NYSE Group Certificate, Article IV, Section 4(b)(1)(F). Articles V.A.8 through 10 of the ICE Holdings Certificate would be renumbered accordingly.

- In the NYSE Holdings Operating Agreement, Article I, Section 1.1, the definition of “Exchange Member” would be added and the definitions of “MKT Member,” “NYSE Arca ETP Holder,” “NYSE Member,” “NYSE National ETP Holder,” “OTP Firm,” and “OTP Holder” would be deleted.

- In the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv), “an NYSE Arca ETP Holder or an OTP Holder or OTP Firm” would be replaced with “a Member of any Exchange.”²⁶

Approval Requirements for Exceeding Voting and Concentration Limits

The Exchange proposes that, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, the amended Limitation Provisions require that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the various categories of Exchange membership. Accordingly, the Exchange

¹⁷ See ICE Holdings Bylaws, Art. III, Sec. 3.14; NYSE Holdings Agreement, Art. III, Sec. 3.12; and NYSE Group Certificate Art. V, Sec. 8.

¹⁸ See ICE Bylaws, Art. III, Sec. 3.14(c); Amended and Restated Bylaws of Bats Global Markets Holdings, Inc., Art. VII, Sec. 7.2; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Art. 4, Sec. 4.12; Bylaws of IEX Group, Inc., Art. VII, Sec. 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Art. VII, Sec. 1.

¹⁹ See ICE Holdings Certificate, Art. V, Sec. A and B; NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a) and (b); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1) and (2).

²⁰ See ICE Certificate, Art. V, Sec. A and B, and 82 FR 25018, *supra* note 4, at 25020.

²¹ See ICE Holdings Certificate, Art. V, Sec. A(3)(c); NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a)(3)(c); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1)(A)(y).

²² See ICE Certificate, Art. V, Sec. A(3)(c) and (8).

²³ 15 U.S.C. 78c(a)(3)(A). NYSE Holdings uses “Exchange Member” because, as a limited liability company, it has a Member, which is ICE Holdings.

²⁴ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

²⁵ See Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (“CBOE Certificate”), Art. Sixth, Sec. (a)(ii)(C) and (b)(ii)(D) (“Trading Permit Holder”); Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., Article Ninth (a)(ii) (“Exchange Member”).

²⁶ See ICE Certificate, Art. V, Sec. B(3)(d).

proposes to make the following changes to ICE Holdings Certificate, Article V.A.3.c; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(C); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(y):

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the text “NYSE Arca, Inc. (‘NYSE Arca’) or NYSE Arca Equities, Inc. (‘NYSE Arca Equities’) or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (i) and (ii).

- In the provision of the NYSE Group Certificate, “the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (1) and (2).

- In all three provisions, the text “a Member (as defined below) of any Exchange” would replace the text from “an ETP Holder (as defined in the NYSE Arca Equities rules” through the end of the paragraph, with the exception that the NYSE Holdings text does not include “(as defined below).”

In addition, the Exchange proposes the following changes to the ICE Holdings Certificate, Article V.A.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(z):

- In all three provisions, the text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges,” with the exception that the NYSE Group text has the word “the” at its start. The text “a Member of any Exchange” would replace the text from “an NYSE Arca ETP Holder” through the end of the paragraph.

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the word “and” would be added between (i) and (ii). In the provision of the NYSE Group Certificate, the word “and” would be added between clauses (1) and (2).

The Exchange proposes that the conditions relating to a person seeking approval to exceed the ownership concentration limitation be similarly amended. The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V.B.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(b)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv):

- The word “and” would be added immediately before the provisions.
- The text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “any Exchange,” with the exception that the NYSE Group text has the word “the” at its start.
- The text from “an NYSE Arca ETP Holder” through the end of the next three

subparagraphs would be deleted and replaced with “a Member of any Exchange.”

Definition of Related Persons

Currently, the Limitation Provisions include lengthy definitions of “Related Persons.” The Exchange proposes to amend such definitions to eliminate the exchange-by-exchange description. Use of “Member” would permit a simplification, without substantive change, of the portion of the definition of the term “Related Persons” relating to members and trading permit holders. The revised definitions would be the same as the definition in the ICE Certificate, subject to differences in numbering and, in the NYSE Holdings Operating Agreement, certain terms.²⁷

The Exchange accordingly proposes the following changes to the definitions of “Related Persons” in the ICE Holdings Certificate, current Article V.A(9); NYSE Holdings Operating Agreement, Article I, Section 1.1; and NYSE Group Certificate, Article IV, Section 4(b)(1)(E):

- In the fourth subparagraph, the text “‘member organization’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any ‘member’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)” would be replaced with “Member, any Person.”

- In the fifth subparagraph, the text “an OTP Firm, any OTP Holder that is associated with such Person” would be replaced with “a natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated.”

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, “and” would be added between the seventh and eighth subparagraphs. In the NYSE Group Certificate, “and” would be added between the eighth and ninth subparagraphs.

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, subparagraphs nine through 12 would be deleted. In the NYSE Group Certificate, subparagraphs six and ten through 12 would be deleted, and the provisions renumbered accordingly.

Confidential Information

The Exchange proposes to amend the confidential information provisions in the ICE Holdings Bylaws, NYSE Holdings Operating Agreement, and NYSE Group Certificate. The proposed amendments would make such Governing Documents more consistent with the confidential information provision in the ICE Bylaws.²⁸

Accordingly, in the ICE Holdings Bylaws, Article VIII, Section 8.3(b);

²⁷ See ICE Certificate, Art. V, Sec. A(10). NYSE Holdings uses “Interests of the Company” rather than “shares of stock of the Corporation.”

²⁸ See ICE Bylaws, Art. VIII. See also 82 FR 25018, *supra* note 4, at 25020.

NYSE Holdings Operating Agreement, Article XII, Section 12.3; and NYSE Group Certificate, Article X, the text “U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight” would be replaced with “Exchange.”²⁹

The proposed change would remove the provisions that allow any U.S. Regulated Subsidiary to inspect and copy the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the confidential information provisions would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. However, the proposed change would have no substantive effect, because pursuant to NYSE Arca Rule 3.12³⁰ NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, and NYSE Arca Equities no longer exists. The NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange proposes the following additional changes to the provisions:

- In the ICE Holdings Bylaws, Article VIII, Sections 8.1 and 8.2, and NYSE Holdings Operating Agreement, Article XII, Sections 12.1 and 12.2, “U.S. Subsidiaries’ Confidential Information” would be amended to “Exchange Confidential Information.”

- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “U.S. Subsidiaries’ Confidential Information” would be deleted and the definition of “Exchange Confidential Information” added.

Additional Proposed Changes to the Governing Documents

In addition to the above, the Exchange proposes that Article II of the ICE Holdings Certificate be updated to include the name and building of its registered office in the State of Delaware. In addition, conforming changes would be made to the title, recitals, date and signature line, as applicable, of the Governing Documents.

ICE Certificate

The Exchange proposes to make a non-substantive amendment to Article

²⁹ The text of the NYSE Group Certificate uses “Regulated Subsidiary” instead of “U.S. Regulated Subsidiary.”

³⁰ NYSE Arca Rule 3.12 provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca for purposes of and subject to oversight pursuant to the Exchange Act and subject to inspection and copying by NYSE Arca. See ICE Bylaws, Art. VIII, Sec. 8.3.

V, Section A(3)(a) of the ICE Certificate. Due to an oversight, the text of the ICE Certificate approved by the ICE shareholders at the ICE annual meeting omitted the word “respective” from Article V, Section A(3)(a).³¹ To conform the ICE Certificate filed with the Commission to the text approved by the shareholders, the Exchange proposes to delete the word “respective” from clause (i) of the provision, which would read as follows (proposed deletion in bracket):

will not impair the ability of any national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an “Exchange”), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an “Intermediate Holding Company”) or the Corporation to discharge their [respective] responsibilities under the Exchange Act and the rules and regulations thereunder. . . .

The Exchange does not propose to make any other changes to the ICE Certificate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act³² in general, and with Section 6(b)(1)³³ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references in the Governing Documents to entities that are not national securities exchanges. The Exchange Act definition of “exchange” states that “exchange” “includes the market place

and the market facilities maintained by such exchange.”³⁴ Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the Governing Documents. The Exchange notes that the proposed change would align the Governing Documents voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.³⁵ In addition, it would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating obsolete references to NYSE Arca Equities, which has been merged out of existence.

As a result of the proposed use of “Exchanges” instead of “U.S. Regulated Subsidiaries,” the confidential information provisions of the Governing Documents would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, including that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. The proposed change would add further clarity and transparency to the Exchange’s rules without having a substantive effect, as, pursuant to NYSE Arca Rule 3.12, NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, NYSE Arca Equities no longer exists and the NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange believes that the proposed use in the Governing Documents of the defined term “Intermediate Holding Company” in place of lists of intermediate holding companies would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges without making a substantive change.

Similarly, the Exchange believes that the proposed use of the defined term “Member” in place of lists of categories of members and permit holders in the

Limitation Provisions would simplify the provisions without substantive change, avoiding exchange-by-exchange descriptions of categories of members and permit holders, as each of the categories currently listed is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.³⁶ Such use of “Member,” along with the simplification of the definition of “Related Persons” in the Limitation Provisions, would add clarity and transparency to the Exchange’s rules as well as align the Limitation Provisions with the ICE Certificate voting and ownership concentration limits and with the voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.³⁷

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act³⁸ because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries, Regulated Subsidiaries, and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate; (2) using “Intermediate Holding Company” in place of lists of intermediate holding companies; (3) using “Member” in place of the lists of categories of members and permit holders in the Limitation Provisions; (4) simplifying the definition of “Related Persons” in the Limitation Provisions; (5) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries; and (6) making conforming changes to the Governing

³¹ See Intercontinental Exchange, Inc. Notice of 2017 Annual Meeting and Proxy Statement, at page A-5, available at <https://ir.theice.com/~media/Files/ICE-IR/quarterly-results/2016/proxy-statement-2016.pdf>.

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(1).

³⁴ 15 U.S.C. 78c(a)(1).

³⁵ See CBOE Certificate, Art. Fifth, Sec. (a)(v), and Art. Sixth, Sec. (a)(ii)(A) (“Regulated Securities Exchange Subsidiaries”); and Amended and Restated Certificate of Incorporation of Bats Global Markets Holdings, Inc., Art. Fifth, Sec. (2) (“Exchange Subsidiaries”).

³⁶ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

³⁷ See note 25, *supra*.

³⁸ 15 U.S.C. 78f(b)(5).

Documents, would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange's rules and removing obsolete references, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Governing Documents.

The Exchange believes that the proposed amendments to the Governing Document provisions limiting claims against directors, officers and employees, as well as the relevant Intermediate Holding Company, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the ICE Certificate, as well as in the governing documents of other holding companies of national securities exchanges, which are substantially similar.³⁹

Finally, the Exchange believes that its proposed non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate would 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 because it would ensure that the ICE Certificate filed with the Commission conforms to the text approved by the ICE shareholders at the ICE annual meeting.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the Intermediate Holding Company governing documents to make them more consistent with the governing documents of ICE, their ultimate parent, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information.

The Exchange believes that the proposed rule change will serve to promote clarity and consistency,

thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

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 Act⁴⁰ and Rule 19b-4(f)(6) thereunder.⁴¹ 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) thereunder.⁴²

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)⁴³ 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.

⁴⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴¹ 17 CFR 240.19b-4(f)(6).

⁴² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴³ 15 U.S.C. 78s(b)(2)(B).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2017-29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEAMER-2017-29. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2017-29 and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25139 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

⁴⁴ 17 CFR 200.30-3(a)(12).

³⁹ See note 18, *supra*.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82087; File No. SR–BatsEDGA–2017–29]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.8, Order Types, To Clarify When a MidPoint Discretionary Order May Execute at Sub-Penny Prices

November 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on November 2, 2017, Cboe EDGA Exchange, Inc. (“EDGA” or the “Exchange”) (formerly known as Bats EDGA Exchange, Inc.) 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 Act³ 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 Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraph (e) of Exchange Rule 11.8, Order Types, to clarify when a MidPoint Discretionary Orders [sic] (“MDO”) may execute at sub-penny prices.

The text of the proposed rule change is available at the Exchange’s Web site at www.markets.cboe.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

An MDO is a limit order to buy that is pegged to the National Best Bid (“NBB”), with discretion to execute at prices up to and including the midpoint of the National Best Bid and Offer (“NBBO”), or a limit order to sell that is pegged to the National Best Offer (“NBO”), with discretion to execute at prices down to and including the midpoint of the NBBO.⁵ MDOs are designed to exercise discretion to execute to the midpoint of the NBBO and provide price improvement over the NBBO.

Currently, Rule 11.8(e) describes the operation of an MDO and states that an MDO in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes (i) at the midpoint of the NBBO against contra side MidPoint Peg Orders⁶ or (ii) against other MDOs. The Exchange included this provision within Rule 11.8(e) as part of a proposed rule change to provide additional specificity regarding the current functionality of the Exchange’s System,⁷ including the operation of its order types and order instructions.⁸ Over time, this provision has become too restrictive and inadvertently excluded scenarios where an MDO may execute at a sub-penny price. Although accurate at the time it was adopted, because such contra-side orders (MidPoint Peg Orders and MDOs) were the only orders eligible to execute at the sub-penny midpoint of the NBBO, an MDO will trade at a sub-penny midpoint against all orders eligible to execute at the midpoint of the NBBO.⁹ MDOs will also currently trade at sub-penny prices in other scenarios. The

⁵ See Exchange Rule 11.8(e) for a complete description of the operation of MDOs.

⁶ See Exchange Rule 11.8(d) (describing MidPoint Peg Orders).

⁷ Exchange Rule 1.5(cc) defines “System” as “the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.”

⁸ See Securities Exchange Act Release No. 73592 (November 13, 2014), 79 FR 68937 (November 19, 2014) (order approving SR–EDGA–2014–20).

⁹ See e.g., NYSE Arca, Inc. (“NYSE Arca”) Rule 7.31–E(d)(3)(C) (stating that a Mid-Point Liquidity Order “to buy (sell) will trade at the midpoint of the PBBO against all incoming orders to sell (buy) priced at or below (above) the midpoint of the PBBO”).

Exchange, therefore, proposes to revise this provision in Rule 11.8(e) to clarify that MDOs in a stock priced at \$1.00 or more can only be executed in sub-penny increments when it executes at the midpoint of the NBBO or against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D) (described below), regardless of the type of contra-side order, which would update the rule to reflect current system functionality.

Rule 612 of Regulation NMS¹⁰ (the “Sub-Penny Rule”) prohibits a national securities exchange, national securities association, alternative trading system (“ATS”), vendor, or broker-dealer from displaying, ranking, or accepting a bid or offer, an order, quotation, or indication of interest in any NMS stock that is priced in an increment smaller than \$0.01 per share, unless the price of the bid or offer, order, or indication of interest is priced less than \$1.00 per share. The Sub-Penny Rule, however, does not prohibit sub-penny executions at the midpoint of the NBBO so long as the execution does not result from an impermissible sub-penny order or quotation.¹¹ Pursuant to the Sub-Penny Rule, an MDO to buy (sell) will trade at a sub-penny midpoint of the NBBO not only against contra-side MDOs and MidPoint Peg Orders, but also against other contra-side orders eligible to execute at the midpoint of the NBBO. The Sub-Penny Rule also does not prohibit sub-penny price improvement, compared to the NBBO, so long as the order was not priced in an impermissible sub-penny increment.¹² For instance, Exchange Rule 11.10(a)(4)(D) governs the price at which an order is executable when it is posted non-displayed on the Exchange and there is a contra-side displayed order at the same price, creating an internally locked book. Specifically, for bids or offers equal to or greater than \$1.00 per share, in the event that an incoming order on the same side of the market as the displayed order on the Exchange is priced more aggressively than that displayed order, the Exchange will execute the incoming order against the resting non-displayed order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one-half minimum price variation more

¹⁰ 17 CFR 242.612.

¹¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37556 (June 29, 2005).

¹² See Question 13, Division of Market Regulation: Responses to Frequently Asked Questions Concerning Rule 612 (Minimum Pricing Increment) of Regulation NMS, available at <https://www.sec.gov/divisions/marketreg/subpenny612faq.htm#q13>.

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).

than the price of the displayed order. For example, assume the NBBO was \$16.10 by \$16.11 resulting in a sub-penny midpoint of \$16.105. An order to buy at \$16.11 is resting non-displayed on the EDGA Book. A Limit Order to sell at \$16.11 with a Post Only instruction is subsequently entered. Assume that the order to sell with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.11. The display of this order would, in turn, make the resting non-displayed bid not executable at \$16.11. If an incoming MDO to sell at \$16.10 is entered into the EDGA Book, the resting non-displayed bid originally priced at \$16.11 will execute against the incoming MDO at \$16.105 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.11.

Also consider the following example where the execution occurs at a sub-penny price that is not at the midpoint of the NBBO. Assume the NBBO is \$16.08 by \$16.10 resulting in a midpoint of \$16.09. An order to sell at \$16.08 is resting non-displayed on the EDGA Book. A Limit Order to buy at \$16.08 with a Post Only instruction is subsequently entered. Assume that the order to buy with a Post Only instruction would not remove any liquidity upon entry pursuant to the Exchange's economic best interest functionality, and would post to the EDGA Book and be displayed at \$16.08. The display of this order would, in turn, make the resting non-displayed offer not executable at \$16.08. If an incoming MDO to buy is entered into the EDGA Book, the resting non-displayed sell originally priced at \$16.08 will execute against the incoming MDO at \$16.085 per share, thus providing a half-penny of price improvement as compared to the order's limit price of \$16.08.

These scenarios were historically unavailable on the Exchange prior to the merger of the Exchange's former parent company, Direct Edge Holdings LLC, with Bats Global Markets, Inc.¹³ Therefore, the Exchange proposes to amend Rule 11.8(e) to clarify that a MDO's ability to execute at sub-penny midpoint prices is not limited to contra-side orders that are MDOs or MidPoint Peg Orders and that a sub-penny execution may also occur against a contra-side order pursuant to Exchange Rule 11.10(a)(4)(D). The Exchange does

not propose any additional changes to the operation of MDOs as described in Rule 11.8(e).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁵ 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. As stated above, the Exchange included this provision within Rule 11.8(e) as part of a proposed rule change to provide additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and order instructions.¹⁶ Over time, this provision has become too restrictive and inadvertently excludes scenarios where an MDO may execute at a sub-penny price in accordance with the Sub-Penny Rule. The Exchange does not propose to amend or alter the operation of MDOs. Therefore, the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by further aligning the rule with current system functionality.

(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. The proposed rule change does not propose any new functionality and simply updates the rule to reflect current system functionality.

(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 Act¹⁷ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative upon filing. The Exchange stated that such waiver will enable the Exchange to immediately align Rule 11.8(e) with current system functionality. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would enable the Exchange to update its rule without delay. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6)(iii).

²⁰ 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).

¹³ See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43; SR-EDGA-2013-34).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ See *supra* note 8.

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-2017-29 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-2017-29. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsEDGA-2017-29 and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25143 Filed 11-20-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82081; File No. SR-NYSE-2017-57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Governing Documents of Its Intermediate Parent Companies Intercontinental Exchange Holdings, Inc., NYSE Holdings LLC and NYSE Group, Inc. To Make Them More Consistent With the Governing Documents of Their Ultimate Parent Intercontinental Exchange, Inc.

November 15, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on November 2, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the governing documents of its intermediate parent companies Intercontinental Exchange Holdings, Inc. ("ICE Holdings"), NYSE Holdings LLC ("NYSE Holdings"), and NYSE Group, Inc. ("NYSE Group") to make them more consistent with the governing documents of their ultimate parent Intercontinental Exchange, Inc. ("ICE"), including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation. The proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the governing documents of its intermediate parent companies ICE Holdings, NYSE Holdings, and NYSE Group (together, the "Intermediate Holding Companies") to make them more consistent with the ICE governing documents, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information. In addition, the Exchange proposes to make a non-substantive change to the ICE certificate of incorporation.

More specifically, the Exchange proposes to amend the following documents (collectively, the "Governing Documents"):

- Eighth Amended and Restated Certificate of Incorporation of ICE Holdings ("ICE Holdings Certificate") and Fifth Amended and Restated Bylaws of ICE Holdings ("ICE Holdings Bylaws");
- Eighth Amended and Restated Limited Liability Company Agreement of NYSE Holdings ("NYSE Holdings Operating Agreement"); and
- Fifth Amended and Restated Certificate of Incorporation of NYSE Group ("NYSE Group Certificate") and Third Amended and Restated Bylaws of NYSE Group ("NYSE Group Bylaws").

As discussed below, the proposed changes to the Governing Documents would make the relevant provisions more consistent with the Fourth Amended and Restated Certificate of Incorporation of ICE ("ICE Certificate")

²¹ 17 CFR 200.30-3(a)(12) and (59).

and Eighth Amended and Restated Bylaws of ICE (“ICE Bylaws”).⁴

ICE, the ultimate parent of the Exchange, owns 100% of the equity interest in ICE Holdings, which in turn owns 100% of the equity interest in NYSE Holdings. NYSE Holdings owns 100% of the equity interest of NYSE Group, which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, NYSE Arca, Inc. (“NYSE Arca”), NYSE American LLC (“NYSE American”) and NYSE National, Inc. (“NYSE National”).⁵

In addition, the Exchange proposes to make a nonsubstantive change to the ICE Certificate.

Definition of Exchange

With the exception of the NYSE Group Bylaws, the Governing Documents define “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” and, in the case of the NYSE Group Certificate, “Regulated Subsidiary” and “Regulated Subsidiaries” to mean, individually or collectively, the four national securities exchanges owned by ICE (the NYSE, NYSE American, NYSE Arca, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (“NYSE Arca Equities”), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the relevant Intermediate Holding Company. The NYSE Group Bylaws list the relevant entities rather than use a defined term.

Unlike the Governing Documents, the ICE Certificate and ICE Bylaws use the defined term “Exchange” or “Exchanges” instead of “U.S. Regulated Subsidiary” or “U.S. Regulated Subsidiaries.”⁶ “Exchange” is defined as a national securities exchange registered under Section 6 of the Exchange Act⁷ that is directly or indirectly controlled by ICE.⁸ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the terms “Exchange” instead

of “U.S. Regulated Subsidiary” or “Regulated Subsidiary.” Similarly, the Exchange proposes to use “Exchange” or “Exchanges,” as applicable, in place of “U.S. Regulated Subsidiaries” or “Regulated Subsidiaries,” and to use “Exchange” or “Exchanges,” as applicable, instead of lists of specific entities.

As a result of the proposed change, the Governing Documents would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. The Exchange believes omitting references to NYSE Arca, LLC, a subsidiary of NYSE Group, is appropriate because the Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”⁹ NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets. The references to NYSE Arca Equities are obsolete, as it has been merged out of existence.¹⁰

The Exchange accordingly proposes the following changes:

- In the ICE Holdings Certificate, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article V, Section A.10 would be deleted, and the definition of “Exchange” added to Article V, Section A(1).¹¹ In the ICE Holdings Bylaws, the definitions of “U.S. Regulated Subsidiary” and “U.S. Regulated Subsidiaries” in Article III, Section 3.15 would be deleted, and in the NYSE Group Certificate, the definitions of “Regulated Subsidiary” and “Regulated Subsidiaries” in Article IV, Section 4(b)(1)(A) would be deleted, and the definition of “Exchange” added in the deleted definitions’ place.

- In Article 1, Section 1.1 of the NYSE Holdings Operating Agreement, the definitions of “New York Stock Exchange,” “NYSE Arca,” “NYSE Arca Equities,” “NYSE MKT,” “NYSE National,” “U.S. Regulated Subsidiary,” and “U.S. Regulated Subsidiaries” would be deleted and the definition of “Exchange” added.

- In the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(w), the text “of the Regulated Subsidiaries, in each case to the extent that such entities continue to be controlled, directly or indirectly, by the Corporation,” would be replaced with “Exchange,” and “the

Regulated Subsidiaries” would be replaced with “each Exchange.”

- In the NYSE Group Bylaws, the list of national securities exchanges, NYSE Arca, LLC, NYSE Arca Equities and their successors in Article VII, Section 7.9(b) would be replaced with the definition of “Exchange.”

Throughout the Governing Documents, “U.S. Regulated Subsidiary,” “U.S. Regulated Subsidiary’s,” “U.S. Regulated Subsidiaries,” “Regulated Subsidiary,” “Regulated Subsidiary’s,” and “Regulated Subsidiaries” would be replaced with “Exchange,” “Exchange’s,” or “Exchanges,” as applicable. Similarly, lists of any or all of the ICE national securities exchanges, NYSE Arca Equities, NYSE Arca, LLC, their successors, facilities, or the boards of directors of successors, would be replaced with “Exchange” or “Exchanges,” as applicable.¹²

When making such replacements, the Exchange would utilize a comma or the terms “any,” “each,” “an,” or “one or more” and delete the terms “the” or “of the” as necessary to integrate the term into the text. Finally, references to “their” would be amended to “its” as required by the context.¹³

Definition of Intermediate Holding Companies

The ICE Holdings and NYSE Holdings Governing Documents reference NYSE Holdings and NYSE Group by name.¹⁴ The ICE Certificate and ICE Bylaws use the defined term “Intermediate Holding Companies” instead, defining an “Intermediate Holding Company” as “any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange.”¹⁵ The Exchange proposes to amend the Governing Documents to be consistent with the ICE Certificate and ICE Bylaws by using the

¹² For example, in Article XII, clause (b) of the NYSE Group Certificate, “the boards of directors of New York Stock Exchange, NYSE Arca, NYSE Arca Equities, NYSE MKT and NYSE National or the boards of directors of their successors” would be amended to “the boards of directors of each Exchange.”

¹³ For example, in Article III, Section 3.14(b) of the ICE Holdings Bylaws and Article III, Section 3.12(c) of the NYSE Holdings Operating Agreement, “their regulatory authority” would be amended to “its regulatory authority.”

¹⁴ The NYSE Group Governing Documents do not make such references because there are no Intermediate Holding Companies between NYSE Group and the Exchange or its national securities exchange affiliates.

¹⁵ See ICE Certificate, Art. V, Sec. A.3(a); ICE Bylaws, Art. III, Sec. 3.14(a)(2); and 82 FR 25018, *supra* note 4, at 25019. The Intermediate Holding Companies between ICE and the Exchange are ICE Holdings, NYSE Holdings, and NYSE Group.

⁴ See Securities Exchange Act Release No. 80752 (May 24, 2017), 82 FR 25018 (May 31, 2017) (SR–NYSE–2017–13; SR–NYSEArca–2017–29; SR–NYSEMKT–2017–17; SR–NYSENat–2017–01). ICE is a publicly traded company listed on the NYSE.

⁵ The Exchange’s affiliates NYSE American (previously NYSE MKT LLC), NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSEAmer–2017–29, SR–NYSEArca–2017–125, and SR–NYSENat–2017–05.

⁶ See 82 FR 25018, *supra* note 4, at 25019–25020.

⁷ 15 U.S.C. 78f.

⁸ See ICE Certificate, Art. V Sec. A(3)(a), and ICE Bylaws, Art. III, Sec. 3.15.

⁹ 15 U.S.C. 78c(a)(1).

¹⁰ See Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40).

¹¹ The definition of “Exchange” would replace “any U.S. Regulated Subsidiary (as defined below)” in Art. V, Sec. A(1).

term “Intermediate Holding Companies” instead of specific names.

The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V, Section A(3)(a); ICE Holdings Bylaws, Article III, Section 3.14(a)(2); and NYSE Holdings Operating Agreement:

- In these ICE Holdings Governing Document provisions, the initial references to NYSE Holdings or NYSE Group, including the text “(if and to the extent that NYSE Group continues to exist as a separate entity),” would be replaced with the definition of “Intermediate Holding Company.”¹⁶ The additional references to NYSE Holdings or NYSE Group would be replaced with the terms “Intermediate Holding Company” and “Intermediate Holding Companies,” as applicable.

- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “NYSE Group” would be deleted and the definition of “Intermediate Holding Company” added, and in Article III, Section 3.12(b)(2) and Article IX, Section 9.1(a)(3)(A) and (b)(3)(A), references to “NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)” would be replaced with “Intermediate Holding Companies” or “Intermediate Holding Company,” as applicable.

Considerations of the Board

The ICE Holdings Bylaws, NYSE Holdings Agreement, and NYSE Group Certificate have provisions setting forth considerations directors must take into account in discharging their responsibilities.¹⁷ Each such provision limits claims against directors, officers and employees as well as the relevant Intermediate Holding Company. The Exchange proposes to amend such provisions to substantially conform them to the analogous provision in the ICE Bylaws, as well as the governing documents of other holding companies of national securities exchanges, which are substantially similar.¹⁸

The Exchange accordingly proposes the following changes to the ICE Holdings Bylaws, Article III, Section 3.14(c); NYSE Group Certificate, Article

¹⁶ In the ICE Holdings Certificate, the word “respective” also would be deleted.

¹⁷ See ICE Holdings Bylaws, Art. III, Sec. 3.14; NYSE Holdings Agreement, Art. III, Sec. 3.12; and NYSE Group Certificate Art. V, Sec. 8.

¹⁸ See ICE Bylaws, Art. III, Sec. 3.14(c); Amended and Restated Bylaws of Bats Global Markets Holdings, Inc., Art. VII, Sec. 7.2; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Art. 4, Sec. 4.12; Bylaws of IEX Group, Inc., Art. VII, Sec. 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Art. VII, Sec. 1.

V, Section 8; and NYSE Holdings Operating Agreement, Section 3.12(d):

- The ICE Holdings Bylaws and NYSE Group Certificate provisions would be expanded in scope to apply to any “past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as directors, officers and employees. To implement the change, the Exchange proposes to amend the final sentences of the ICE Holdings Bylaws and NYSE Group Certificate provisions as follows (deletions [bracketed], additions *italicized*):

No past or present stockholder, employee, [former employee,] beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity shall have any rights against any director, officer, [or] employee or agent of the Corporation or the Corporation under this Section

- The NYSE Holdings Operating Agreement provision would be expanded in scope to apply to any “past or present Manager, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,” and to protect agents as well as Managers, officers and employees. To implement the change, the Exchange proposes to amend the final sentence of the provision as follows (deletions [bracketed], additions *italicized*):

No past or present Manager, employee, [former employee,] beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity shall have any rights against any Manager, officer, [or] employee or agent of the Company or the Company under Section 3.12.

Limitations on Voting and Ownership

The ICE Holdings Certificate, NYSE Holdings Operating Agreement, and NYSE Group Certificate have provisions that establish voting and ownership concentration limitations on owners of their respective common stock above certain thresholds, which apply for so long as the relevant Intermediate Holding Company owns any U.S. Regulated Subsidiary (the “Limitation Provisions”).¹⁹ Such provisions authorize the relevant entity’s Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations.

¹⁹ See ICE Holdings Certificate, Art. V, Sec. A and B; NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a) and (b); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1) and (2).

The ICE Certificate has a similar voting and ownership concentration limitation provision.²⁰ The Exchange proposes to amend the Limitations Provisions to make them more consistent with the provision in the ICE Certificate.

Definition of Member

Currently, the Limitation Provisions include lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE American, NYSE Arca, and NYSE National.²¹ Consistent with the ICE Certificate,²² the Exchange proposes to replace such provisions with the defined term “Member,” or, in the case of the NYSE Holdings Operating Agreement, “Exchange Member,” defined to mean a person that is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²³

The Exchange believes that using “Member” or “Exchange Member” in place of the lists of categories of members and permit holders presently in the Governing Documents would simplify the Limitation Provisions, avoiding exchange-by-exchange descriptions of categories of members and permit holders without substantive change. Each of the categories listed—an ETP Holder, OTP Holder or OTP Firm of NYSE Arca, a “member” or “member organization” of the NYSE or NYSE American, or an ETP Holder of NYSE National—is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.²⁴

The Exchange believes that the use of “Member” and the changes to remove the descriptions of categories of members and permit holders would be appropriate because it would align the Limitation Provisions more closely with the ICE Certificate, as well as voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.²⁵ The Exchange

²⁰ See ICE Certificate, Art. V, Sec. A and B, and 82 FR 25018, *supra* note 4, at 25020.

²¹ See ICE Holdings Certificate, Art. V, Sec. A(3)(c); NYSE Holdings Operating Agreement, Art. IX, Sec. 9.1(a)(3)(c); and NYSE Group Certificate, Art. IV, Sec. 4(b)(1)(A)(y).

²² See ICE Certificate, Art. V, Sec. A(3)(c) and (8).

²³ 15 U.S.C. 78c(a)(3)(A). NYSE Holdings uses “Exchange Member” because, as a limited liability company, it has a Member, which is ICE Holdings.

²⁴ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

²⁵ See Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (“CBOE Certificate”), Art. Sixth, Sec. (a)(ii)(C) and (b)(ii)(D).

accordingly proposes the following changes:

- The definition of “Member” would be added to the ICE Holdings Certificate, Article V.A.8, and NYSE Group Certificate, Article IV, Section 4(b)(1)(F). Articles V.A.8 through 10 of the ICE Holdings Certificate would be renumbered accordingly.

- In the NYSE Holdings Operating Agreement, Article I, Section 1.1, the definition of “Exchange Member” would be added and the definitions of “MKT Member,” “NYSE Arca ETP Holder,” “NYSE Member,” “NYSE National ETP Holder,” “OTP Firm,” and “OTP Holder” would be deleted.

- In the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv), “an NYSE Arca ETP Holder or an OTP Holder or OTP Firm” would be replaced with “a Member of any Exchange.”²⁶

Approval Requirements for Exceeding Voting and Concentration Limits

The Exchange proposes that, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, the amended Limitation Provisions require that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the various categories of Exchange membership. Accordingly, the Exchange proposes to make the following changes to ICE Holdings Certificate, Article V.A.3.c; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(C); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(y):

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the text “NYSE Arca, Inc. (‘NYSE Arca’) or NYSE Arca Equities, Inc. (‘NYSE Arca Equities’) or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (i) and (ii).

- In the provision of the NYSE Group Certificate, “the NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges.” In addition, “and” would be added between clauses (1) and (2).

- In all three provisions, the text “a Member (as defined below) of any Exchange” would replace the text from “an ETP Holder (as defined in the NYSE Arca Equities rules” through the end of the paragraph, with the exception that

(“Trading Permit Holder”); Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., Article Ninth (a)(ii) (“Exchange Member”).

²⁶ See ICE Certificate, Art. V, Sec. B(3)(d).

the NYSE Holdings text does not include “(as defined below).”

In addition, the Exchange proposes the following changes to the ICE Holdings Certificate, Article V.A.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(a)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(1)(A)(z):

- In all three provisions, the text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “one or more Exchanges,” with the exception that the NYSE Group text has the word “the” at its start. The text “a Member of any Exchange” would replace the text from “an NYSE Arca ETP Holder” through the end of the paragraph.

- In the provisions of the ICE Holdings and NYSE Holdings Governing Documents, the word “and” would be added between (i) and (ii). In the provision of the NYSE Group Certificate, the word “and” would be added between clauses (1) and (2).

The Exchange proposes that the conditions relating to a person seeking approval to exceed the ownership concentration limitation be similarly amended. The Exchange accordingly proposes the following changes to the ICE Holdings Certificate, Article V.B.3.d; NYSE Holdings Operating Agreement, Article IX, Section 9.1(b)(3)(D); and the NYSE Group Certificate, Article IV, Section 4(b)(2)(C)(iv):

- The word “and” would be added immediately before the provisions.

- The text “NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca” would be replaced with “any Exchange,” with the exception that the NYSE Group text has the word “the” at its start.

- The text from “an NYSE Arca ETP Holder” through the end of the next three subparagraphs would be deleted and replaced with “a Member of any Exchange.”

Definition of Related Persons

Currently, the Limitation Provisions include lengthy definitions of “Related Persons.” The Exchange proposes to amend such definitions to eliminate the exchange-by-exchange description. Use of “Member” would permit a simplification, without substantive change, of the portion of the definition of the term “Related Persons” relating to members and trading permit holders. The revised definitions would be the same as the definition in the ICE Certificate, subject to differences in

numbering and, in the NYSE Holdings Operating Agreement, certain terms.²⁷

The Exchange accordingly proposes the following changes to the definitions of “Related Persons” in the ICE Holdings Certificate, current Article V.A(9); NYSE Holdings Operating Agreement, Article I, Section 1.1; and NYSE Group Certificate, Article IV, Section 4(b)(1)(E):

- In the fourth subparagraph, the text “‘member organization’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any ‘member’ (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)” would be replaced with “Member, any Person.”

- In the fifth subparagraph, the text “an OTP Firm, any OTP Holder that is associated with such Person” would be replaced with “a natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated.”

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, “and” would be added between the seventh and eighth subparagraphs. In the NYSE Group Certificate, “and” would be added between the eighth and ninth subparagraphs.

- In the ICE Holdings Certificate and NYSE Holdings Operating Agreement, subparagraphs nine through 12 would be deleted. In the NYSE Group Certificate, subparagraphs six and ten through 12 would be deleted, and the provisions renumbered accordingly.

Confidential Information

The Exchange proposes to amend the confidential information provisions in the ICE Holdings Bylaws, NYSE Holdings Operating Agreement, and NYSE Group Certificate. The proposed amendments would make such Governing Documents more consistent with the confidential information provision in the ICE Bylaws.²⁸

Accordingly, in the ICE Holdings Bylaws, Article VIII, Section 8.3(b); NYSE Holdings Operating Agreement, Article XII, Section 12.3; and NYSE Group Certificate, Article X, the text “U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight” would be replaced with “Exchange.”²⁹

²⁷ See ICE Certificate, Art. V, Sec. A(10). NYSE Holdings uses “Interests of the Company” rather than “shares of stock of the Corporation.”

²⁸ See ICE Bylaws, Art. VIII. See also 82 FR 25018, *supra* note 4, at 25020.

²⁹ The text of the NYSE Group Certificate uses “Regulated Subsidiary” instead of “U.S. Regulated Subsidiary.”

The proposed change would remove the provisions that allow any U.S. Regulated Subsidiary to inspect and copy the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the confidential information provisions would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. However, the proposed change would have no substantive effect, because pursuant to NYSE Arca Rule 3.12³⁰ NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, and NYSE Arca Equities no longer exists. The NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange proposes the following additional changes to the provisions:

- In the ICE Holdings Bylaws, Article VIII, Sections 8.1 and 8.2, and NYSE Holdings Operating Agreement, Article XII, Sections 12.1 and 12.2, “U.S. Subsidiaries’ Confidential Information” would be amended to “Exchange Confidential Information.”
- In the NYSE Holdings Operating Agreement, Article 1, Section 1.1, the definition of “U.S. Subsidiaries’ Confidential Information” would be deleted and the definition of “Exchange Confidential Information” added.

Additional Proposed Changes to the Governing Documents

In addition to the above, the Exchange proposes that Article II of the ICE Holdings Certificate be updated to include the name and building of its registered office in the State of Delaware. In addition, conforming changes would be made to the title, recitals, date and signature line, as applicable, of the Governing Documents.

ICE Certificate

The Exchange proposes to make a non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate. Due to an oversight, the text of the ICE Certificate approved by the ICE shareholders at the ICE annual meeting omitted the word “respective” from Article V, Section A(3)(a).³¹ To conform

³⁰ NYSE Arca Rule 3.12 provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca for purposes of and subject to oversight pursuant to the Exchange Act and subject to inspection and copying by NYSE Arca. See ICE Bylaws, Art. VIII, Sec. 8.3.

³¹ See Intercontinental Exchange, Inc. Notice of 2017 Annual Meeting and Proxy Statement, at page A-5, available at <https://ir.theice.com/~media/>

the ICE Certificate filed with the Commission to the text approved by the shareholders, the Exchange proposes to delete the word “respective” from clause (i) of the provision, which would read as follows (proposed deletion in bracket):

will not impair the ability of any national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an “Exchange”), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an “Intermediate Holding Company”) or the Corporation to discharge their [respective] responsibilities under the Exchange Act and the rules and regulations thereunder

The Exchange does not propose to make any other changes to the ICE Certificate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act³² in general, and with Section 6(b)(1)³³ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references in the Governing Documents to entities that are not national securities exchanges. The Exchange Act definition of “exchange” states that “exchange” “includes the market place and the market facilities maintained by such exchange.”³⁴ Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the Governing Documents. The Exchange notes that the proposed

change would align the Governing Documents voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.³⁵ In addition, it would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating obsolete references to NYSE Arca Equities, which has been merged out of existence.

As a result of the proposed use of “Exchanges” instead of “U.S. Regulated Subsidiaries,” the confidential information provisions of the Governing Documents would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, including that NYSE Arca may inspect the books and records of NYSE Arca, LLC or NYSE Arca Equities. The proposed change would add further clarity and transparency to the Exchange’s rules without having a substantive effect, as, pursuant to NYSE Arca Rule 3.12, NYSE Arca would retain its authority over the books and records of NYSE Arca, LLC, NYSE Arca Equities no longer exists and the NYSE, NYSE American, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

The Exchange believes that the proposed use in the Governing Documents of the defined term “Intermediate Holding Company” in place of lists of intermediate holding companies would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges without making a substantive change.

Similarly, the Exchange believes that the proposed use of the defined term “Member” in place of lists of categories of members and permit holders in the Limitation Provisions would simplify the provisions without substantive change, avoiding exchange-by-exchange descriptions of categories of members and permit holders, as each of the categories currently listed is a “member” of an exchange within the meaning of Section 3(a)(3)(A) of the

³⁵ See CBOE Certificate, Art. Fifth, Sec. (a)(v), and Art. Sixth, Sec. (a)(ii)(A) (“Regulated Securities Exchange Subsidiaries”); and Amended and Restated Certificate of Incorporation of Bats Global Markets Holdings, Inc., Art. Fifth, Sec. (2) (“Exchange Subsidiaries”).

Files/1/Ice-IR/quarterly-results/2016/proxy-statement-2016.pdf.

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(1).

³⁴ 15 U.S.C. 78c(a)(1).

Exchange Act.³⁶ Such use of “Member,” along with the simplification of the definition of “Related Persons” in the Limitation Provisions, would add clarity and transparency to the Exchange’s rules as well as align the Limitation Provisions with the ICE Certificate voting and ownership concentration limits and with the voting and ownership concentration limits in the certificates of incorporation of other companies that own one or more national securities exchanges, which use a similar description of membership.³⁷

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act³⁸ because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries, Regulated Subsidiaries, and to the NYSE, NYSE American, NYSE Arca, NYSE Arca, LLC and NYSE Arca Equities with references to an “Exchange” or the “Exchanges,” as appropriate; (2) using “Intermediate Holding Company” in place of lists of intermediate holding companies; (3) using “Member” in place of the lists of categories of members and permit holders in the Limitation Provisions; (4) simplifying the definition of “Related Persons” in the Limitation Provisions; (5) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries; and (6) making conforming changes to the Governing Documents, would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange’s rules and removing obsolete references, thereby ensuring that persons subject to the Exchange’s jurisdiction, regulators, and the investing public can more easily

navigate and understand the Governing Documents.

The Exchange believes that the proposed amendments to the Governing Document provisions limiting claims against directors, officers and employees, as well as the relevant Intermediate Holding Company, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the ICE Certificate, as well as in the governing documents of other holding companies of national securities exchanges, which are substantially similar.³⁹

Finally, the Exchange believes that its proposed non-substantive amendment to Article V, Section A(3)(a) of the ICE Certificate would 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 because it would ensure that the ICE Certificate filed with the Commission conforms to the text approved by the ICE shareholders at the ICE annual meeting.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the Intermediate Holding Company governing documents to make them more consistent with the governing documents of ICE, their ultimate parent, including by (a) streamlining references to ICE subsidiaries that either are or control national securities exchanges and deleting references to other ICE subsidiaries; and (b) amending the provisions regarding limitations on claims, voting and ownership concentration limitations, and confidential information.

The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

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 Act⁴⁰ and Rule 19b-4(f)(6) thereunder.⁴¹ 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) thereunder.⁴²

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)⁴³ 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

⁴⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴¹ 17 CFR 240.19b-4(f)(6).

⁴² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴³ 15 U.S.C. 78s(b)(2)(B).

³⁶ 15 U.S.C. 78c(a)(3)(A). Former NYSE Arca Equities ETP Holders are now ETP Holders of NYSE Arca. See 82 FR 40044, *supra* note 10, at 40044.

³⁷ See note 25, *supra*.

³⁸ 15 U.S.C. 78f(b)(5).

³⁹ See note 18, *supra*.

• Send an email to rule-comments@sec.gov. Please include File Number SR–NYSE–2017–57 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–2017–57. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–57 and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–25138 Filed 11–20–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82086; File No. SR–NYSE–2017–58]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.06 of the NYSE Listed Company Manual

November 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on November 1, 2017, New York Stock Exchange LLC (the “Exchange” or “NYSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 902.06 of the NYSE Listed Company Manual (the “Manual”). 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 11, 2017, the Securities and Exchange Commission (the “Commission”) approved the Exchange's proposed rule change to

adopt initial and continued listing standards for subscription receipts.³ After approval, it was discovered that the proposed rule text attached as Exhibit 5 to the Exchange's Rule 19b–4 filing contained an error to the part of the filing amending the listing fees in Section 902.06. The Exchange proposes to correct the inadvertent error.

In connection with adopting initial and continued listing standards for subscription receipts, the Exchange amended Section 902.06 of the Manual to specify how listing fees for subscription receipts would be charged. Section 902.06 of the Manual sets forth listing fees for “short-term” securities, *i.e.*, securities with a life of seven years or less. Because subscription receipts listed under Section 102.08 of the Manual have a maximum life of 12 months, the Exchange stated in the Purpose Section of its proposed rule change that it would amend Section 902.06 to make explicit that such section would apply to subscription receipts. However, in drafting the proposed rule text contained in Exhibit 5 to its Rule 19b–4 filing, the Exchange inadvertently included subscription receipts in a list of securities to which Section 902.06 of the Manual does not apply. The Exchange now proposes to amend Section 902.06 to correct the error in the actual rule text that was adopted to make clear that Section 902.06 does apply to subscription receipts.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Sections 6(b)(5)⁵ of the Act, in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with the protection of investors because it seeks to amend the Manual to accurately reflect how the Exchange intends to charge listing fees for subscription receipts as stated in the description of

³ See Securities Exchange Act Release No. 81856 (October 11, 2017), 82 FR 48296 (October 17, 2017) (SR–NYSE–2017–31).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

⁴⁴ 17 CFR 200.30–3(a)(12).

the application of listing fees to subscription receipts as contained in the Purpose Section of SR–NYSE–2017–31. The Exchange believes that it is to the benefit of investors and the public interest that it correct the error in the actual rule text that was adopted to make clear that Section 902.06 does apply to subscription receipts.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange notes that the proposed rule change will correct an unintentional error in the rule text about how it intends to charge listing fees for subscription receipts.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,⁶ the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b–4(f)(6) thereunder.⁸

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),⁹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the

Commission waive the 30-day operative delay. In its proposal, the Exchange stated that waiving the 30-day operative delay would be consistent with the protection of investors and the public interest because it would ensure that the rule text contained in Section 902.06 of the Manual accurately reflects the Exchange's intended change as described in the purpose section of NYSE–2017–31.

The Commission believes that waiver of the 30-day operative delay should help prevent potential confusion to market participants as to the applicable listing and annual fees for subscription receipts under NYSE rules by correcting an error made in a prior approved proposal.¹⁰ The Commission further notes that it received no comments on the description of the proposed fees contained in the prior proposal, and that the correction being made in this rule filing will conform the applicable fees for subscription receipts to those that were originally intended by NYSE.¹¹ Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.¹²

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)¹³ 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁰ See Securities Exchange Act Release No. 81856 (October 11, 2017), 82 FR 48296 (October 17, 2017) (order approving SR–NYSE–2017–31).

¹¹ See *id.* See also Securities Exchange Act Release No. 81102 (July 7, 2017), 82 FR 32413 (July 13, 2017) (notice of filing of SR–NYSE–2017–31).

¹² For purposes only of waiving the 30-day operative delay, 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. 78s(b)(2)(B).

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File No. SR–NYSE–2017–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2017–58. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2017–58, and should be submitted on or before December 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–25137 Filed 11–20–17; 8:45 am]

BILLING CODE 8011–01–P

¹⁴ 17 CFR 200.30–3(a)(12).

⁶ The Exchange has satisfied this requirement.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b–4(f)(6).

⁹ *Id.*

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15391 and #15392; NEW YORK Disaster Number NY-00179]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of New York

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New York (FEMA-4348-DR), dated 11/14/2017.

Incident: Flooding.

Incident Period: 05/02/2017 through 08/06/2017.

DATES: Issued on 11/14/2017.

Physical Loan Application Deadline Date: 01/16/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 08/14/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/14/2017, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Jefferson, Niagara, Orleans, Oswego, Saint Lawrence, Wayne.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 153916 and for economic injury is 153920.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,
Associate Administrator for Disaster Assistance.

[FR Doc. 2017-25167 Filed 11-20-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15380 and #15381; ILLINOIS Disaster Number IL-00049]

Administrative Declaration of a Disaster for the State of Illinois

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Illinois dated 11/13/2017.

Incident: Severe Storms and Flooding.
Incident Period: 07/11/2017 through 07/27/2017.

DATES: Issued on 11/13/2017.

Physical Loan Application Deadline Date: 01/12/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 08/13/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Lake
Contiguous Counties:

Illinois: Cook, McHenry
Wisconsin: Kenosha
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	6.430
Businesses Without Credit Available Elsewhere	3.215
Non-Profit Organizations With Credit Available Elsewhere ...	2.500

	Percent
Non-Profit Organizations Without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.215
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15380 6 and for economic injury is 15381 0. The States which received an EIDL Declaration # are Illinois, Wisconsin.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: November 13, 2017.

Linda E. McMahon,
Administrator.

[FR Doc. 2017-25118 Filed 11-20-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Centers Advisory Board

AGENCY: Small Business Administration.

ACTION: Notice of open Federal Advisory Committee meetings.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the 2nd and 3rd quarter meetings of the Federal Advisory Committee for the Small Business Development Centers Program. The meeting will be open to the public; however, advance notice of attendance is required.

DATES: Tuesday, January 9, 2018, at 1:00 p.m. EST

Tuesday, March 20, 2018, 1:00 p.m. EST
Tuesday, May 15, 2018, 1:00 p.m. EST

ADDRESSES: Meeting will be held via conference call.

FOR FUTURE INFORMATION CONTACT: Monika Nixon, Office of Small Business Development Center, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416; monika.nixon@sba.gov; (202) 205-7310.

If anyone wishes to be a listening participant or would like to request accommodations, please contact Monika Nixon at the information above.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to

the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of the meetings is to discuss the following issues pertaining to the SBDC Program:

- SBA Update
- Annual Meetings
- Board Assignments
- Member Roundtable

Richard Kingan,

Acting White House Liaison.

[FR Doc. 2017-25165 Filed 11-20-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15378 and #15379; South Carolina Disaster Number SC-00053]

Administrative Declaration of a Disaster for the State of South Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of South Carolina dated 11/14/2017.

Incident: Tornadoes.

Incident Period: 10/23/2017.

DATES: Issued on 11/14/2017.

Physical Loan Application Deadline Date: 01/16/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 08/14/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Spartanburg

Contiguous Counties:

South Carolina: Cherokee, Greenville, Laurens, Union

North Carolina: Polk, Rutherford

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.770
Businesses Without Credit Available Elsewhere	3.385
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.385
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15378 C and for economic injury is 15379 O.

The States which received an EIDL Declaration # are South Carolina, North Carolina.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: November 14, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017-25117 Filed 11-20-17; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Final Supplemental Environmental Assessment (SEA) and Amended Finding of No Significant Impact/Record of Decision (FONSI/ROD) for the Runway 13/31 Shift/Extension and Associated Improvements Project for the Detroit Lakes-Becker County Airport (DTL) in Detroit Lakes, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public that the FAA has prepared and approved (September 6, 2017) an Amended FONSI/ROD based on the Final SEA for the DTL Runway 13/31 Shift/Extension and Associated Improvements Project. The Final SEA was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, FAA Orders 1050.1F, "Environmental Impacts: Policies and Procedures" and 5050.4B, "NEPA Implementing Instructions for Airport Actions".

DATES: This notice is applicable November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Josh Fitzpatrick, Environmental Protection Specialist, FAA Dakota-Minnesota Airports District Office (ADO), 6020 28th Avenue South, Suite 102, Minneapolis, Minnesota, 55450. Telephone number is (612) 253-4639. Copies of the Amended FONSI/ROD and/or Final SEA are available upon written request by contacting Mr. Josh Fitzpatrick through the contact information above.

SUPPLEMENTARY INFORMATION: The Final SEA evaluated the DTL Runway 13/31 Shift/Extension and Associated Improvements Project. Due to airfield deficiencies identified by the FAA and Minnesota Department of Transportation (MnDOT) at DTL, the purpose of the proposed action is to provide a usable, reliable, and safe primary runway at an airport in or near the City of Detroit Lakes that is compliant with FAA and MnDOT design standards, guidance, and minimum system objectives for key airports.

During the design phase, it was discovered that several additional project components were not evaluated by the 2016 FEA and FONSI/ROD, therefore, the FAA determined that the proposed action needs to be updated with a SEA to include project components not explicitly considered. The additional project components as part of the proposed action include: 1. Existing utilities impacted by the project. 2. Visual NAVAIDS (wind cone and segmented circle) impacted by the project. 3. Buildings to be removed in conjunction with the project. 4. Relocation of Highway 59 access. 5. Effluent discharge from upgraded wastewater treatment facility.

The FAA prepared the Final Federal SEA, pursuant to the requirements of the NEPA. The Final SEA identified and evaluated all reasonable alternatives. After careful analysis, the City of Detroit Lakes selected the following alternatives as the preferred alternative: 1. Alternative AU2, Runway 13 Overhead Power Line Removal/Relocation. 2. Alternative AU3, Runway 31 Overhead Power Line Removal/Relocation. 3. Alternative UU1, Runway 31 Fiber Optic Communications Line-No Action. 4. Alternative UU5, Runway 31 UE Power Line Relocation-Relocate Line West in Longview Driver Right of Way. 5. Alternative WC2, Relocate Wind Cone and Segmented Circle. 6. Alternative BD2, Remove Buildings on Tracts 13 and 19. 7. Alternative HA2: Relocate Highway 59 Access to the Northeast. 8.

	Percent
<i>For Physical Damage:</i>	

Alternative ED2, Effluent Discharge Pipe Installed in Runway 31 Runway Protection Zone (RPZ). These alternatives satisfy the purpose and need while minimizing impacts.

The evaluation of these components in the preferred alternative conducted under the SEA has not resulted in additional or an increase in impacts associated with the proposed action.

Based on the analysis in the Final SEA, the FAA has determined that the preferred alternative will not result in significant impacts to resources identified in accordance with FAA Orders 1050.1F and 5054.4B. Therefore, an environmental impact statement will not be prepared.

Issued in Minneapolis, Minnesota on October 16, 2017.

Andy Peek,

Manager, Dakota-Minnesota Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2017-24741 Filed 11-20-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0025; Notice 2]

BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of Petition.

SUMMARY: BMW of North America, LLC (BMW), has determined that certain model year (MY) 2016 BMW 7 Series motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices and associated equipment*. BMW filed a noncompliance report dated January 21, 2016. BMW also petitioned NHTSA on February 12, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: For further information on this decision contact Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5304, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. *Overview:* BMW of North America, LLC (BMW), has determined that certain model year (MY) 2016 BMW 7 Series motor vehicles do not fully comply with paragraph S7.7.13.3 of Federal Motor

Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices and associated equipment*. BMW filed a noncompliance report dated January 21, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW also petitioned NHTSA on February 12, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on March 4, 2016, in the **Federal Register** (81 FR 11645). One comment was received. To view the petition, comments and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0025."

II. *Vehicles Involved:* Approximately 5,076 MY 2016 BMW 7 Series passenger cars, which were manufactured between August 03, 2015, and November 20, 2015, are potentially involved.

III. *Noncompliance:* BMW states that the rear license plate lamp may not fully conform to paragraph S7.7.13.3 of FMVSS No. 108 because it exceeds the illumination ratio specified in that paragraph.

IV. *Rule Text:* Paragraph S7.7.13.3 of FMVSS No. 108 requires, in pertinent part:

S7.7.13.3 The ratio of the average of the two highest illumination values divided by the average of the two lowest illumination values must not exceed 20:1 for vehicles other than motorcycles and motor driven cycles.

V. *Summary of BMW's Petition:* BMW described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- The out-of-specification lamps satisfy all other requirements of FMVSS No. 108.
- The out-of-specification lamps only deviate from paragraph 7.7.13.3 of FMVSS No. 108 with regard to the lamp's illumination ratio and not the lamp's actual illumination.
- Personnel who participated in a company assessment reported no difference in their visual perception of the simulated license plates that were used as test specimens.
- BMW has not received any customer complaints related to the issue.

- BMW is not aware of any accidents or injuries related to this issue.

- NHTSA has previously granted petitions in which the illumination of test points remains well above the requirements.

- Vehicle production has been corrected.

In support of its petition, BMW submitted the following information pertaining to laboratory testing and analysis of the subject noncompliance:

(1) *FMVSS No. 108 Lamp Certification:* BMW submitted a test report dated April 7, 2015 pertaining to lamps manufactured by U-SHIN Italia S.p.A. (U-SHIN) prior to vehicle production. According to BMW, this report indicates that the lamp satisfies FMVSS No. 108 requirements, as the ratio of the average of the two highest illumination values divided by the average of the two lowest illumination values is 14.1, and FMVSS No. 108 requires that the value be less than 20.

(2) *Evaluation by Measurement Equipment:* Both BMW and U-SHIN performed a number of tests of both in-specification and out-of-specification lamps to assess the performance of the subject lamps to the pertinent requirement of FMVSS No. 108. BMW submitted one representative test report for each test condition. The results are as follows:

—*U-SHIN out-of-specification lamp tests:* These showed an illumination ratio of 22.0. BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*BMW out-of-specification lamp tests:* BMW performed its own out-of-specification tests to verify U-SHIN's test results and to obtain results for the lamps when equipped within a vehicle. These showed an illumination ratio of 22.2. BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*U-SHIN in-specification lamp tests:* These showed an illumination ratio of 13.8. As with the previously described tests, BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*BMW in-specification tests:* BMW performed their own in-specification tests to verify U-SHIN's test results and to obtain results for the lamps when equipped within a vehicle. These showed an illumination ratio of 13.9. BMW again noted, however, that

each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

(3) *Evaluation by human assessment:*

In addition to the laboratory testing performed by both BMW and U-SHIN using specific lamp measurement equipment, BMW also compared the out-of-specification lamps to the in-specification lamps via human assessment. BMW performed this assessment to determine whether or not the condition caused by the non-compliance was perceptible to other road users (*i.e.*, drivers approaching an affected vehicle) and, if so, its effect on safety.

BMW submitted photographs that depict the illumination of a test specimen simulating a rear license plate by both in-specification and out-of-specification lamps. According to BMW, while there may be a slightly perceptible difference in the photographs depicting the test specimen illuminated by in-specification and out-of-specification lamps, this is due to tolerances of the camera equipment related to exposure time and shutter speed. BMW stated that the personnel who participated in this assessment reported no difference in their visual perception of the test specimens.

Additionally, BMW noted that even for the out-of-specification lamp, all of the eight (8) test points satisfy the applicable FMVSS No. 108 photometric (illumination) requirements. BMW emphasized that the noncompliance pertains to the illumination ratio, not to the actual lamp illumination. As a consequence, BMW asserts that while the noncompliance condition can be measured in a laboratory, it cannot be detected by the human eye, and therefore drivers of approaching vehicles will be afforded the same level of visibility as if approaching a non-affected vehicle. According to BMW, these analyses support the conclusion that the condition caused by the noncompliance does not affect the safety of affected vehicle occupants or other road users such as drivers approaching affected vehicles.

(4) *Field Experience:* BMW states that its Customer Relations division has not received any contacts from vehicle owners regarding the matter at issue. As a consequence, BMW believes that, consistent with the results of the laboratory tests and human assessments described above, the condition is undetectable to road users such as drivers approaching affected vehicles. BMW further notes that it is not aware of any accidents or injuries that have occurred as a result of the condition.

(5) *Prior NHTSA Rulings:* BMW states that NHTSA has previously granted petitions from other manufacturers involving various issues pertaining to FMVSS No. 108 noncompliance. BMW believes that in some of those petitions, the photometry (illumination) of the test points remains well above the FMVSS No. 108 requirements as the noncompliance has no effect upon the illumination of the test points.

(6) *Vehicle Production:* BMW stated that subsequent vehicle production has been corrected to conform to paragraph 7.7.13.3 of FMVSS No. 108.

In summation, BMW expressed the belief that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and remedying the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA's Decision

Comments: One comment was received by Mr. Chris Janik. Mr. Janik said "This is a technical non-compliance that is based only on laboratory measurement and calculation of the illumination ratio. To me, the compelling argument to grant the petition is that there are no customer complaints regarding the issue and that the difference between license plate bulb that comply with the requirements and those that do not is not perceptible to anyone that is behind the vehicle. There is no unreasonable risk to motor vehicle safety, so this petition should clearly be granted"

NHTSA thanks Mr. Janik for his comment. NHTSA has reviewed the petition and made its decision based on the reasons described below.

NHTSA's Analysis: Based on test data provided by BMW, NHTSA found that the percent difference of the lamp's illumination ratio in the subject vehicles exceed the maximum requirement by 9% to 10.6%. Even though the lamps exceed the illumination ratio the lamps satisfy all other FMVSS No. 108 requirements. However, NHTSA is unable to verify the validity of BMW's claim that this difference cannot be detected by the human eye.

License plates are necessary on motor vehicles to allow law enforcement personnel and the general public to uniquely identify vehicles. When it is dark and motor vehicle lighting is in use, the required license plate lamp is necessary to illuminate the license plate on the rear of a vehicle so it can be identified. FMVSS No. 108 contains various photometric and geometric requirements for the purpose of assuring

legibility of the license plate. One such requirement is the illumination ratio to protect against shadowing across the license plate, which could make the license plate difficult to read.

As in the case of BMW's petition, the burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard is substantial and difficult to meet, and the agency has not found many such noncompliances to be inconsequential. However, one area in which the agency has granted such petitions has been where the noncompliance is expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers. NHTSA found BMW's assessment of human visual perception of the test specimens to be interesting, yet insufficient to justify granting the petition. Instead NHTSA is relying on the test data which indicates that the license plate lamps on these vehicles exceeded the minimum photometric performance levels at each of the eight (8) test points by at least 37.5% and up to 191.3%. This data in conjunction with the fact that the ratio is slightly greater than required, NHTSA would agree that license plates illuminated with these lamps would be legible.

Furthermore, NHTSA reiterates that the lamp illumination ratio is an important performance measurement to ensure license plate legibility.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that BMW has met its burden of persuasion that the FMVSS No. 108 noncompliance is inconsequential as it relates to motor vehicle safety under these facts and circumstances. Accordingly, BMW's petition is hereby granted and BMW is consequently exempted from the obligation to provide notification of, and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for

introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Associate Administrator for Enforcement.

[FR Doc. 2017-25168 Filed 11-20-17; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Bank Activities and Operations; Investment in Bank Premises

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the 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, “Bank Activities and Operations; Investment in Bank Premises.”

DATES: You should submit written comments by January 22, 2018.

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: 1557-0204, 400 7th Street SW., Suite 3E-218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by email 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 hearing impaired, 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, 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.

Title: Bank Activities and Operations; Investment in Bank Premises.

OMB Control No.: 1557-0204.

Description: The information collection requirements ensure that institutions conduct their operations in a safe and sound manner and in accordance with applicable federal banking statutes and regulations. The information is necessary for regulatory and examination purposes.

The information collection requirements are as follows:

- 12 CFR 5.37 (Investment in national bank or federal savings association premises). A national bank or federal savings association may invest in banking premises and other premises-related investments, loans, or indebtedness by filing an application for prior approval whenever its investment in bank premises will cause it to exceed its capital stock. The application must describe the present and proposed investment and the business reason for

exceeding the limit. A bank with a composite 1 or 2 CAMELS rating entering a transaction that increases its aggregate bank premises investment to not more than 150 percent of its capital and surplus may proceed without prior OCC approval, but must provide an after-the-fact notice.

- 12 CFR 7.1000(d)(1) (National bank ownership of property—Lease financing of public facilities). National bank lease agreements must provide that the lessee will become the owner of the building or facility upon the expiration of the lease.

- 12 CFR 7.1014 (Sale of money orders at nonbanking outlets). A national bank may designate bonded agents to sell the bank’s money orders at nonbanking outlets. The responsibility of both the bank and its agent should be defined in a written agreement setting forth the duties of both parties and providing for remuneration of the agent.

- 12 CFR 7.2000(b) (Corporate governance procedures—Other sources of guidance). A national bank shall designate in its bylaws the body of law selected for its corporate governance procedures.

- 12 CFR 7.2004 (Honorary directors or advisory boards). Any listing of a national bank’s honorary or advisory directors must distinguish between those directors and the bank’s board of directors or indicate their advisory status.

- 12 CFR 7.2014(b) (Indemnification of institution-affiliated parties—Administrative proceeding or civil actions not initiated by a federal agency). A national bank shall designate in its bylaws the body of law selected for making indemnification payments.

- 12 CFR 7.2024(a) (Staggered terms for national bank directors). Any national bank may adopt bylaws that provide for the staggering the terms of its directors. National banks shall provide the OCC with copies of any bylaws so amended.

- 12 CFR 7.2024(c) (Size of bank board). A national bank seeking to increase the number of its directors must notify the OCC any time the proposed size would exceed 25 directors.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1,294.

Estimated Total Annual Burden: 611 hours.

Frequency of Response: On occasion.

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 functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 13, 2017.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017-25185 Filed 11-20-17; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Investment Securities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are 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, "Investment Securities."

DATES: You should submit written comments by January 22, 2018.

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: 1557-0205, 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 hearing impaired, 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 hearing impaired, 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 renewal 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 the collection of information set forth in this document.

Title: Investment Securities.

OMB Control No.: 1557-0205.

Description: Under 12 CFR 1.3(h)(2), a national bank may request an OCC determination that it may invest in an

entity that is exempt from registration under section 3(c)(1) of the Investment Company Act of 1940¹ if the portfolio of the entity consists exclusively of assets that a national bank may purchase and sell for its own account. The OCC uses the information contained in the request as a basis for ensuring that the bank's investment is consistent with its investment authority under applicable law and does not pose unacceptable risk.

Under 12 CFR 1.7(b), a national bank may request OCC approval to extend the five-year holding period for securities held in satisfaction of debts previously contracted for up to an additional five years. In its request, the bank must provide a clearly convincing demonstration of why any additional holding period is needed. The OCC uses the information in the request to ensure, on a case-by-case basis, that the bank's purpose in retaining the securities is not speculative and that the bank's reasons for requesting the extension are adequate. The OCC also uses the information to evaluate the risks to the bank of extending the holding period, including potential effects on the bank's safety and soundness.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 25.

Estimated Total Annual Burden: 460 hours.

Frequency of Response: On occasion.

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 functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

¹ 15 U.S.C. 80a-3(c)(1).

Dated: November 13, 2017.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017-25187 Filed 11-20-17; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Ten or More Employer Plans.

DATES: Written comments should be received on or before January 19, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, at (202) 317-5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Ten or More Employer Plans.

OMB Number: 1545-1795.

Regulation Project Number: T.D. 9079.

Abstract: This document contains final regulations that provide rules regarding requirements for a welfare benefit fund that is part of a 10 or more employer plan. The regulations affect employers that provide welfare benefits to employees through a plan to which more than one employer contributes.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit or not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Response: 25 hrs.

Estimated Total Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 6, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-25126 Filed 11-20-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Section 1446 Regulations; Form 8804-

C—Certificate of Partner-Level Items to Reduce Section 1446 Withholding.

DATES: Written comments should be received on or before January 22, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, at (202) 317-5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: TD 9394 (REG-108524-00) (Final)—Section 1446 Regulations; Form 8804-C—Certificate of Partner-Level Items to Reduce Section 1446 Withholding.

OMB Number: 1545-1934.

Regulation Project Number: T.D. 9394, Form 8804-C.

Abstract: Form 8804-C will be a form a foreign partner would voluntarily submit to the partnership if it chooses to provide a certification that could reduce or eliminate the partnership's need to withhold 1446 tax.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals or Households, and Not-for-Profit Organizations.

Estimated Number of Respondents: 1,001.

Estimated Time per Response: 18 hrs., 42 mins.

Estimated Total Burden Hours: 18,701.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 7, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-25127 Filed 11-20-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2014-55

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Election Procedures and Information Reporting with Respect to Interests in Certain Canadian Retirement Plans.

DATES: Written comments should be received on or before January 22, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION: Requests for additional information or copies of the Rev. Proc. should be directed to Martha R. Brinson, at (202) 317-5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Election Procedures and Information Reporting with Respect to Interests in Certain Canadian Retirement Plans.

OMB Number: 1545-1773.

Rev. Proc. Number: 2014-55.

Abstract: Revenue Procedure 2002-23 provides guidance for the application by U.S. citizens and residents of the U.S.—Canada Income Tax Treaty, as amended by the 1995 protocol, in order to defer U.S. Income taxes on income accrued in certain Canadian retirement plans. This revenue procedure was superseded by Revenue Procedure 2014-55.

Current Actions: There are no changes being made to the Rev. Proc. at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Responses: 20,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 6, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-25124 Filed 11-20-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0171]

Agency Information Collection Activity: Application for Individualized Tutorial Assistance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 22, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to nancy.kessinger@va.gov.

Please refer to "OMB Control No. 2900-0171 in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461-5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 3019.

Title: Application for Individualized Tutorial Assistance, VA Form 22–1990T.

OMB Control Number: 2900–0171.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 22–1990T for Tutorial assistance is a supplementary allowance payable on a monthly basis for up to 12 months. The student must be training at one-half time or more in a post-secondary degree program, and must have a deficiency in a unit course or subject that is required as part of, or prerequisite to, his or her approved program. The student uses VA Form 22–1990t, Application and Enrollment Certification for Individualized Tutorial Assistance to apply for the supplemental allowance.

Affected Public: Individuals or households.

Estimated Annual Burden: 180 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once Annually.

Estimated Number of Respondents: 359.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–25175 Filed 11–20–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection

Activity: Longitudinal Investigation of Gender, Health and Trauma (LIGHT) Survey

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the

information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 21, 2017.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to oir_submission@omb.eop.gov. Please refer to “OMB Control No. 2900–NEW” in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email cynthia.harvey-pryor@va.gov. Please refer to “OMB Control No. 2900–NEW” in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Under 38 U.S.C., Part I, Chapter 5, Section 527.

Title: Longitudinal Investigation of Gender, Health and Trauma (LIGHT) Survey.

OMB Control Number: 2900–NEW.

Type of Review: New Collection.

Abstract: The purpose of this study is to understand the cumulative effects of lifetime exposure to trauma and ongoing exposure to trauma such as community and intimate partner violence on Veterans’ mental and physical health, including its impact on the reproductive health of Veterans. To implement this research, VHA and entities working on behalf of VHA will conduct a nationwide longitudinal survey of Veterans residing in communities with varying levels of crime. Specifically, this longitudinal study will involve surveying Veterans regarding their life experiences, experiences within their neighborhood, mental health symptomatology, physical health, reproductive health, mental health service use, social support, and coping style three times over the course of approximately 1 year. We will contact a random sample of 14,000 Veterans (11,000 female and 3,000 male) between the ages of 18 and 45 obtained from VA DoD Identity Repository (VADIR) to invite them to participate in this study, with the ultimate goal of achieving a baseline sample of ~4,000 Veterans (~3,000 female and ~1,000 male). Given our primary aim to examine the role of community violence on outcomes, we will oversample for residency in high crime communities using zip codes to ensure that individuals living in these

areas are invited to participate and are, therefore, represented in the study sample. We will also oversample rural communities using zip codes. Finally, as we are explicitly interested in under-represented populations in the larger Veteran population, we will also oversample racial minorities. Our response rate target for the survey is ~30%, which is consistent with other recent surveys of the Veteran population. After adjusting for potentially unusable or ineligible records (estimated at ~8%), we predict ~4,000 will complete the study.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 37169 on August 8, 2017, page 37169.

Affected Public: Individuals and households.

Estimated Annual Burden:

Time 1 Survey: 3,000 hours.

Time 2 Survey: 3,000 hours.

Time 3 Survey: 3,000 hours.

Estimated Average Burden per

Respondent:

Time 1 Survey: 45 minutes.

Time 2 Survey: 45 minutes.

Time 3 Survey: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

Time 1 Survey: 4,000.

Time 2 Survey: 4,000.

Time 3 Survey: 4,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–25177 Filed 11–20–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0629]

Agency Information Collection

Activity: Application for Extended Care Services

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed renewal of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 22, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to Brian.McCarthy4@va.gov. Please refer to "OMB Control No. 2900-0629" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461-6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's

functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 1705, 1710B, 1722A, 1729.

Title: Application for Extended Care Services.

OMB Control Number: 2900-0629.

Type of Review: Renewal of a currently approved collection.

Abstract: Title 38 U.S.C. Chapter 17 authorizes VA to provide hospital care, medical services, domiciliary care and nursing home care to eligible Veterans. Title 38 U.S.C. 1705 requires VA to design, establish and operate a system of annual patient enrollment in accordance with a series of stipulated priorities. A consequence of this is that many groups of Veterans who are in a lower priority group (WWI Veterans, Veterans with disabilities rated as 0% service-connected seeking treatment for other than their service-connected conditions, Veterans exposed to a toxic substance, radiation, or environmental hazard and nonservice-connected Veterans) may request that they be allowed to be income tested in order to gain a higher priority. Title 38 U.S.C. 1722 establishes eligibility assessment procedures for

cost-free VA medical care, based on income levels, which will determine whether nonservice-connected and 0% service-connected non-compensable Veterans are able to defray the necessary expenses of care for nonservice-connected conditions. Title 38 U.S.C. 1722A establishes the eligibility assessment procedures, based on income levels, for determining Veterans' eligibility for cost-free medications and Title 38 U.S.C. 1710B defines the procedures for establishing eligibility for cost-free Extended Care benefits. Title 38 U.S.C. 1729 authorizes VA to recover from Veterans' health insurance carriers the cost of care furnished for their nonservice-connected conditions. VA Form 10-10EC, Application for Extended Care Services, is used to collect financial information necessary to determine a Veteran's copayment obligation for extended care services, also known as long term care (LTC).

Affected Public: Individuals and households.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden per Respondent: 90 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 2,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017-25176 Filed 11-20-17; 8:45 am]

BILLING CODE 8320-01-P

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