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DEPARTMENT OF ENERGY

10 CFR Part 851

[AU–RM–16–WSHP]

RIN 1992–AA55

Worker Safety and Health Program

AGENCY: Office of Environment, Health, Safety and Security, U.S. Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) is amending the worker safety and health program regulations to update the safety and health standards and delete the obsolete directives currently incorporated by reference in the code of federal regulations. The regulatory amendments do not alter substantive rights or obligations under current law.

DATES: This rulemaking is effective January 17, 2018. The incorporation by reference of certain publications listed in this rulemaking is approved by the Director of the Federal Register on January 17, 2018. Compliance is required starting January 17, 2019.

FOR FURTHER INFORMATION CONTACT: Bill McArthur, U.S. Department of Energy, Office of Environment, Health, Safety and Security, AU–11, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (301) 903–6061. Email: *bill.mcarthur@hq.doe.gov.*

Daniel Cohen, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586–9523. Email: *daniel.cohen@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into part 851 complete and specific sections of the following industry safety and health standards:

1. American Conference of Governmental Industrial Hygienists (ACGIH®), *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices,* (2016).

A copy of the ACGIH® Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2016) can be obtained from: ACGIH®, 1330 Kemper Meadow Drive, Cincinnati, OH 45240. Telephone number 513–742–2020, or go to: *http://www.acgih.org.*

2. ANSI Z49.1–2012, *American National Standard Safety in Welding, Cutting and Allied Processes,* sections 4.3 and E4.3, ANSI approved March 9, 2012.

3. ANSI/ASSE Z88.2–2015, *American National Standard Practices for Respiratory Protection,* ANSI approved March 4, 2015.

4. ANSI Z136.1–2014, *American National Standard for Safe Use of Lasers,* ANSI approved December 10, 2013.

Copies of ANSI Z49.1–2012, Z88.2–2015, and ANSI Z136.1–2014 can be obtained from the American National Standards Institute Headquarters, 1899 L Street NW, 11th Floor, Washington, DC 20036. Telephone number: 202–293–8020, or go to: *http://www.ansi.org.*

5. The American Society of Mechanical Engineers (ASME) *Boiler and Pressure Vessel Code (BPVC)*–2015, 2015 edition, issued July 1, 2015.

(a) ASME BPVC.I–2015, *Section I—Rules for Construction of Power Boilers;*

(b) ASME BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (Beginning to SA–450);*

(c) ASME BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (SA–451 to End);*

(d) ASME BPVC.II.B–2015, *Section II—Materials, Part B—Nonferrous Material Specifications;*

(e) ASME BPVC.II.C–2015, *Section II—Materials, Part C—Specification for Welding Rods, Electrodes, and Filler Metals;*

(f) ASME BPVC.II.D.C–2015, *Section II—Materials, Part D—Properties (Customary);*

(g) ASME BPVC.II.D.M–2015, *Section II—Materials, Part D—Properties (Metric);*

(h) ASME BPVC.III.A–2015, *Section III—Rules for Construction of Nuclear Facility Components, Appendices;*

(i) ASME BPVC.III.1.NB–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components;*

(j) ASME BPVC.III.1.NC–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components;*

(k) ASME BPVC.III.1.ND–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components;*

(l) ASME BPVC.III.1.NE–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components;*

(m) ASME BPVC.III.1.NF–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports;*

(n) ASME BPVC.III.1.NG–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures;*

(o) ASME BPVC.III.1.NH–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service;*

(p) ASME BPVC.III.NCA–2015, *Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2;*

(q) ASME BPVC.III.2–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments;*

(r) ASME BPVC.III.3–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuels and High Level Radioactive Material and Waste;*

(s) ASME BPVC.III.5–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors;*

(t) ASME BPVC.IV–2015, *Section IV, Rules for Construction of Heating Boilers;*

(u) ASME BPVC.V–2015, *Section V, Nondestructive Examination;*

(v) ASME BPVC.VI–2015, *Section VI, Recommended Rules for the Care and Operation of Heating Boilers;*

(w) ASME BPVC.VII–2015, *Section VII, Recommended Guidelines for the Care of Power Boilers;*

(x) ASME BPVC.VIII.1–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 1;*

(y) ASME BPVC.VIII.2–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules;*

(z) ASME BPVC.VIII.3–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels;*

(aa) ASME BPVC.IX–2015, *Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures; Welders; Brazers; and Welding, Brazing, and Fusing Operators;*

(bb) ASME BPVC.X–2015, *Section X, Fiber-Reinforced Plastic Pressure Vessels;*

(cc) ASME BPVC.XI–2015, *Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components;*

(dd) ASME BPVC.XII–2015, *Section XII, Rules for Construction and Continued Service of Transport Tanks;*

(ee) ASME BPVC.CC.BPV–2015, *Code Cases, Boilers and Pressure Vessels;* and

(ff) ASME BPVC.CC.NC–2015, *Code Cases, Nuclear Components.*

6. ASME B31.1–2016, *Power Piping, ASME Code for Pressure Piping, B31,* issued June 30, 2016.

7. ASME B31.3–2014, *Process Piping, ASME Code for Pressure Piping, B31,* issued February 27, 2015.

8. ASME B31.4–2016, *Pipeline Transportation Systems for Liquids and Slurries, ASME Code for Pressure Piping, B31,* issued March 31, 2016.

9. ASME B31.5–2016, *Refrigeration Piping and Heat Transfer Components, ASME Code for Pressure Piping, B31,* issued June 29, 2016.

10. ASME B31.8–2016, *Gas Transmission and Distribution Piping Systems,* ASME Code for Pressure Piping, B31, issued September 30, 2014.

11. ASME B31.8S–2014, *Managing System Integrity of Gas Pipelines, ASME Code for Pressure Piping, B31, Supplement to ASME B31.8,* issued September 30, 2014.

12. ASME B31.9–2014, *Building Services Piping, ASME Code for Pressure Piping, B31,* issued April 28, 2014.

13. ASME B31G–2012, *Manual for Determining the Remaining Strength of Corroded Pipelines, Supplement to ASME B31 Code for Pressure Piping,* issued October 24, 2012.

Copies of ASME BPVC–2015, BPVC.I–2015, BPVC.II.A–2015, BPVC.II.A–2015, BPVC.II.B–2015, BPVC.II.C–2015, BPVC.II.D.C–2015, BPVC.II.D.M–2015, BPVC.III.A–2015, BPVC.III.1.NB–2015, BPVC.III.1.NC–2015, BPVC.III.1.ND–2015, BPVC.III.1.NE–2015, BPVC.III.1.NF–2015, BPVC.III.1.NG–2015, BPVC.III.1.NH–2015, BPVC.III.NCA–2015, BPVC.III.2–2015, BPVC.III.3–2015, BPVC.III.5–2015, BPVC.IV–2015, BPVC.V–2015, BPVC.VI–2015, BPVC.VII–2015, BPVC.VIII.1–2015, BPVC.VIII.2–2015, BPVC.VIII.3–2015, BPVC.IX–2015, BPVC.X–2015, BPVC.XI–2015, BPVC.XII–2015, BPVC.CC.BPV–2015, BPVC.CC.NC–2015, B31.1–2016, B31.3–2016, B31.4–2016, B31.5–2016, B31.8–2016, B31.8S–2014, B31.9–2014 and B31G–2012 can be obtained from: American Society of Mechanical Engineers (ASME), P.O. Box 2300 Fairfield, NJ 07007. Telephone: 800–843–2763, or got to: *http://www.asme.org.*

14. National Fire Protection Association (NFPA) 70, *National Electric Code,* (2017), issued August 4, 2016.

15. NFPA 70E, *Standard for Electrical Safety in the Workplace,* (2015 edition), July 14, 2014.

Copies of NFPA 70 (2017) and 70E (2015) can be obtained from: National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169. Telephone: 617 770–3000, or go to: *http://www.nfpa.org.*

For a further discussion of these standards, see section II.

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I. Authority and Background

A. Authority

DOE has broad authority to regulate worker safety and health with respect to its nuclear and nonnuclear functions pursuant to the Atomic Energy Act of 1954 (AEA), 42 U.S.C. 2011 *et seq.;* the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. 5801–5911; and the Department of Energy Organization Act (DOEOA), 42 U.S.C. 7101–7352. Specifically, the AEA authorized and directed the Atomic Energy Commission (AEC) to protect health and promote safety during the performance of activities under the AEA. See Sec. 31a.(5) of AEA, 42 U.S.C. 2051(a)(5); Sec. 161b. of AEA, 42 U.S.C 2201(b); Sec. 161i.(3) of AEA, 42 U.S.C. 2201(i)(3); and Sec. 161p. of AEA, 42 U.S.C. 2201(p). The ERA abolished the AEC and replaced it with the Nuclear Regulatory Commission (NRC), which became responsible for the licensing of commercial nuclear activities, and the Energy Research and Development Administration (ERDA), which became responsible for the other functions of the AEC under the AEA, as well as several nonnuclear functions. The ERA authorized ERDA to use the regulatory authority under the AEA to carry out its nuclear and nonnuclear function, including those functions that might become vested in ERDA in the future. See Sec. 105(a) of ERA, 42 U.S.C. 5815(a); and Sec. 107 of ERA, 42 U.S.C. 5817. The DOEOA transferred the functions and authorities of ERDA to DOE. See Sec. 301(a) of DOEOA, 42 U.S.C. 7151(a); Sec. 641 of DOEOA, 42 U.S.C. 7251; and Sec. 644 of DOEOA, 42 U.S.C. 7254.

B. Background

On February 9, 2006 (71 FR 6858), when DOE promulgated 10 CFR part 851, *Worker Safety and Health Program,* it adopted several industry standards to establish the baseline technical safety and health requirements for DOE workplace operations. These standards were already required by DOE Order 440.1A, *Worker Protection Management for DOE Federal and Contractor Employees,* which established a comprehensive worker protection program that provided the basic framework necessary for contractors to ensure the safety and health of their workforce.

In this final rule, DOE replaces the existing references to industry safety and health standards with direct references to the latest versions of the appropriate standards. Directly referencing the latest industry standards will allow DOE to adopt current best practices and procedures in safety and health.

II. Description of Materials Incorporated by Reference

DOE incorporates by reference the threshold limit values (TLVs®) for chemical substances and physical agents and biological exposure indices (BEIs®) published by the American Conference of Governmental Industrial Hygienists (ACGIH®) titled ''Threshold Limit Values for Chemical Substances and Physical Agents and Biological

Exposure Indices,'' (2016). The TLVs® and BEIs® are industry accepted values that are intended for use by industrial hygienists in making decisions regarding safe levels of exposure to various chemical and physical agents found in the workplace. Each year ACGIH® publishes its TLVs® and BEIs®. Copies of the ACGIH® TLVs® and BEIs® are readily available on ACGIH®'s website at: *http://www.acgih.org.*

DOE incorporates by reference the following industry standards published by the American National Standards Institute (ANSI):

ANSI Z49.1–2012, Safety in Welding, Cutting and Allied Processes, sections 4.3 and E4.3. ANSI Z49.1–2012 provides guidance for the protection of persons from injury and illness and the protection of property (including equipment) from damage by fire and explosions arising from welding, cutting, and allied processes. Copies of ANSI Z49.1–2012 is readily available on ANSI's website at: *http://www.ansi.org.*

ANSI Z88.2–2015, American National Standard Practices for Respiratory Protection. ANSI Z88.2–2015 is an industry accepted standard that sets forth minimally accepted practices for occupational respirator use; provides information and guidance on the proper selection, use and maintenance of respirators and contains requirements for establishing, implementing and evaluating respirator programs. Copies of ANSI Z88.2–2015 is readily available on ANSI's website at: *http://www.ansi.org.*

ANSI Z136.1–2014, Safe Use of Lasers. ANSI Z136.1–2014 is an industry accepted standard that provides guidance for the safe use of lasers and laser systems by defining control measures for each of seven laser hazard classifications. Copies of ANSI Z136.1–2014 is readily available on ANSI's website at: *http://www.ansi.org.*

DOE also incorporates by reference the following specific industry standards for pressure piping codes published by the American Society for Mechanical Engineers (ASME):

ASME Boiler and Pressure Vessel Code (BPVC)–2015. ASME's BPVC standard establishes rules of safety relating only to pressure integrity—governing the design, fabrication, and inspection of boilers and pressure vessels, and nuclear power plant components during construction. The objective of the rules is to provide a margin for deterioration in service. The Code Cases clarify the existing requirements or provide, when the need is urgent, rules for materials or constructions not covered by existing BPVC rules.

ASME BPVC.I–2015, *Section I—Rules for Construction of Power Boilers.* This section provides requirements for all methods of construction of power, electric, and miniature boilers; high temperature water boilers, heat recovery steam generators, and certain fired pressure vessels to be used in stationary service; and power boilers used in locomotive, portable, and traction service. Rules pertaining to use of the V, A, M, PP, S and E ASME Product Certification Marks are also included. The rules are applicable to boilers in which steam or other vapor is generated at a pressures exceeding 15 psig, and high temperature water boilers intended for operation at pressures exceeding 160 psig and/or temperatures exceeding 250 degree F. Super heaters, economizers, and other pressure parts connected directly to the boiler without intervening valves are considered as part of the scope of Section I.

ASME BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (Beginning to SA–450).* This section is a ''Service Section'' to the other BPVC Sections, providing material specifications for ferrous materials adequate for safety in the field of pressure equipment. These specifications contain requirements for chemical and mechanical properties, heat treatment, manufacture, heat and product analyses, and methods of testing. They are designated by SA numbers and are identical with or similar to those of specifications published by American Society for Testing and Materials (ASTM) and other recognized national or international organizations.

ASME BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (SA–451 to End).* This section is a ''Service Section'' to the other BPVC Sections, providing material specifications for ferrous materials adequate for safety in the field of pressure equipment. These specifications contain requirements for chemical and mechanical properties, heat treatment, manufacture, heat and product analyses, and methods of testing. They are designated by SA numbers and are identical with or similar to those of specifications published by ASTM and other recognized national or international organizations.

ASME BPVC.II.B–2015, *Section II—Materials, Part B—Nonferrous Material Specifications.* This section is a ''Service Section'' to the other BPVC Sections, providing material specifications for ferrous materials adequate for safety in the field of pressure equipment. These specifications contain requirements for chemical and mechanical properties, heat treatment, manufacture, heat and product analyses, and methods of testing. They are designated by SB numbers and are identical with or similar to those of specifications published by ASTM and other recognized national or international organizations.

ASME BPVC.II.C–2015, *Section II—Materials, Part C—Specification for Welding Rods, Electrodes, and Filler Metals.* This section is a ''Service Section'' to the other BPVC Sections providing material specifications for the manufacture, acceptability, chemical composition, mechanical usability, surfacing, testing requirements and procedures, operating characteristics, and intended uses for welding rods, electrodes and filler metals. These specifications are designated by SFA numbers and are derived from AWS specifications.

ASME BPVC.II.D.C–2015, *Section II—Materials, Part D—Properties (Customary).* This section is a ''Service Section'' for reference by the BPVC construction Sections providing tables of material properties including allowable, design, tensile and yield stress values, physical properties and external pressure charts and tables. Part D facilitates ready identification of materials to specific Sections of the BPVC. Part D contains appendices which contain criteria for establishing allowable stress, the bases for establishing external pressure charts, and information required for approval of new materials.

ASME BPVC.II.D.M–2015, *Section II—Materials, Part —Properties (Metric).* This section is a ''Service Section'' for reference by the BPVC construction Sections providing tables of material properties including allowable, design, tensile and yield stress values, physical properties and external pressure charts and tables. Part D facilitates ready identification of materials to specific Sections of the Boiler and Pressure Vessel Code. Part D contains appendices which contain criteria for establishing allowable stress, the bases for establishing external pressure charts, and information required for approval of new materials.

ASME BPVC.III.A–2015, *Section III—Rules for Construction of Nuclear Facility Components, Appendices.* This section contains appendices, both mandatory and nonmandatory for Section III, Division 1 (Subsection NCA through NG) and Division 2, including a listing of design and design analysis methods and information, and Data Report Forms. These appendices are

referenced by and are an integral part of Subsection NCA through NG and Division 2.

ASME BPVC.III.1.NB–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components.* This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class 1 construction. The rules of Subsection NB cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.NC–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Component.* This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class 2 construction. The rules of Subsection NC cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.ND–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components.* This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class 3 construction. The rules of Subsection ND cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.NE–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components.* This subsection contains requirements for the material, design, fabrication, examination, testing and overpressure protection of items which are intended to conform to the requirements for Class MC construction. The rules of Subsection NE cover the requirements for assuring the structural integrity of items.

ASME BPVC.III.1.NF–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports.* This subsection contains requirements for the material, design, fabrication, and examination of supports which are intended to conform to the requirements for Classes 1, 2, 3, and MC construction. Nuclear power plant supports for which rules are specified in this Subsection are those metal supports which are designed to transmit loads from the pressure retaining barrier of the component or piping to the load carrying building structure. In some cases there may be intervening elements in the component support load path which are not constructed to the rules of this Section, such as diesel engines, electric motors, valve operators, coolers, and access structures.

ASME BPVC.III.1.NG–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures.* This subsection contains requirements for the material, design, fabrication, and examination required in the manufacture and installation of core support structures. Core support structures are those structures or parts of structures which are designed to provide direct support or restraint of the core (fuel & blanket assemblies) within the reactor pressure vessel.

ASME BPVC.III.1.NH–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service.* This subsection contains requirements for the material, design, fabrication, and examination required in the manufacture and installation of core support structures. Core support structures are those structures or parts of structures which are designed to provide direct support or restraint of the core (fuel & blanket assemblies) within the reactor pressure vessel.

ASME BPVC.III.NCA–2015, *Section III—Rules for Construction of Nuclear Facility Components, Subsection NCA, General Requirements for Division 1 and Division 2.* This subsection contains general requirements for manufacturers, fabricators, installers, designers, material manufacturers, material suppliers, and owners of nuclear power plants. This Subsection which is referenced by and is an integral part of Division 1, Subsections NB through NG, and Division 2 of Section III, covers quality assurance requirements, ASME Product Certification Marks, and authorized inspection for Class 1, 2, 3, MC, CS, and CC construction. Selective reference of ASME Standard NQA–1, Quality Assurance Program Requirements for Nuclear Facilities, is made in this Subsection.

ASME BPVC.III.2–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments.* This division contains requirements for the material, design, construction, fabrication, testing, examination, and overpressure protection of concrete containment structures, pre-stressed or reinforced. These requirements are applicable only to those components that are designed to provide a pressure retaining or containing barrier. They are not applicable to other support structures, except as they directly affect the components of the systems. This Section contains appendices, both mandatory and nonmandatory, for Division 2 construction.

ASME BPVC.III.3–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuels and High Level Radioactive Material and Waste.* This division contains requirements for the design and construction of the containment system of a nuclear spent fuel or high level radioactive waste transport packaging.

ASME BPVC.III.5–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors.* This division provides construction rules for high-temperature reactors, including both high-temperature, gas-cooled reactors (HTGRs) and liquid-metal reactors (LMRs). These rules are for components exceeding the temperature in Division 1 and are meant for components experiencing temperatures that are equal, to or higher than, 700° F (370° C) for ferritic materials or 800° F (425° C) for austenitic stainless steels or high nickel alloys. Division 5 also contains the new rules pertaining to graphite core components. These new rules include general requirements, plus design and construction rules, for graphite. Irradiation effects on graphite are addressed, as are the features of probabilistic design reflected in the determination of graphite material strength properties.

ASME BPVC.IV–2015, *Section IV, Rules for Construction of Heating Boilers.* This section provides requirements for design, fabrication, installation and inspection of steam heating, hot water heating, hot water supply boilers, and potable water heaters intended for low pressure service that are directly fired by oil, gas, electricity, coal or other solid or liquid fuels. It contains appendices which cover approval of new material, methods of checking safety valve and safety relief valve capacity, examples of methods of checking safety valve and safety relief valve capacity, examples of methods of calculation and computation, definitions relating to boiler design and welding, and quality control systems. Rules pertaining to use of the H, HV, and HLW ASME Product Certification Marks are also included.

ASME BPVC.V–2015, *Section V, Nondestructive Examination.* This section contains requirements and methods for nondestructive examination which are referenced and required by other BPVC Sections. It also includes

manufacturer's examination responsibilities, duties of authorized inspectors and requirements for qualification of personnel, inspection and examination. Examination methods are intended to detect surface and internal discontinuities in materials, welds, and fabricated parts and components. A glossary of related terms is included.

ASME BPVC.VI–2015, *Section VI, Recommended Rules for the Care and Operation of Heating Boilers.* This section covers general descriptions, terminology and operation guidelines applicable to steel and cast iron boilers limited to the operating ranges of Section IV Heating Boilers. It includes guidelines for associated controls and automatic fuel burning equipment. Illustrations show typical examples of available equipment. Also included is a glossary of terms commonly associated with boilers, controls, and fuel burning equipment.

ASME BPVC.VII–2015, *Section VII, Recommended Guidelines for the Care of Power Boilers.* The purpose of these recommend guidelines is to promote safety in the use of power boilers. The term ''power boiler'' in this section includes stationary, portable, and traction type boilers, but does not include locomotive and high temperature water boilers, nuclear power plant boilers, heating boilers, pressure vessels, or marine boilers. This section provides such guidelines to assist those directly responsible for operating, maintaining, and inspecting power boilers. Emphasis has been placed on industrial type boilers because of their extensive use. Guidelines are also provided for operation of auxiliary equipment and appliances that affect the safe and reliable operation of power boilers.

ASME BPVC.VIII.1–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 1.* This division provides requirements applicable to the design, fabrication, inspection, testing, and certification of pressure vessels operating at either internal or external pressures exceeding 15 psig. Such pressure vessels may be fired or unfired. Specific requirements apply to several classes of material used in pressure vessel construction, and also to fabrication methods such as welding, forging and brazing. It contains mandatory and nonmandatory appendices detailing supplementary design criteria, nondestructive examination and inspection acceptance standards. Rules pertaining to the use of the U, UM and UV ASME Product Certification Marks are also included.

ASME BPVC.VIII.2–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules.* This division provides requirements applicable to the design, fabrication, inspection, testing, and certification of pressure vessels operating at either internal or external pressures exceeding 15 psig. Such vessels may be fired or unfired. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof. These rules provide an alternative to the minimum requirements for pressure vessels under Division 1 rules. In comparison the Division 1, Division 2 requirements on materials, design, and nondestructive examination are more rigorous; however, higher design stress intensify values are permitted. Division 2 rules cover only vessels to be installed in a fixed location for a specific service where operation and maintenance control is retained during the useful life of the vessel by the user who prepares or causes to be prepared the design specifications. These rules may also apply to human occupancy pressure vessels typically in the diving industry. Rules pertaining to the use of the U2 and UV ASME Product Certification Marks are also included.

ASME BPVC.VIII.3–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels.* This division provides requirements applicable to the design, fabrication, inspection, testing, and certification of pressure vessels operating at either internal or external pressures generally above 10,000 psi. Such vessels may be fired or unfired. This pressure may be obtained from an external source, a process reaction, by the application of heat from a direct or indirect source, or any combination thereof. Division 3 rules cover vessels intended for a specific service and installed in a fixed location or relocated from work site to work site between pressurizations. The operation and maintenance control is retained during the useful life of the vessel by the user who prepares or causes to be prepared the design specifications. Division 3 does not establish maximum pressure limits for either Section VIII, Divisions 1 or 2, nor minimum pressure limits for this Division. Rules pertaining to the use of the UV3 ASME Product Certification Marks are also included.

ASME BPVC.IX–2015, *Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures; Welders; Brazers; and Welding, Brazing, and Fusing Operators.* This section contains rules relating to the qualification of welding, brazing, and fusing procedures as required by other BPVC Sections for component manufacture. It also covers rules relating to the qualification and requalification of welders, brazers, and welding, brazing and fusing machine operators in order that they may perform welding, brazing, or plastic fusing as required by other BPVC Sections in the manufacture of components. Welding, brazing, and fusing data cover essential and nonessential variables specific to the joining process used.

ASME BPVC.X–2015, *Section X, Fiber-Reinforced Plastic Pressure Vessels.* This section provides requirements for construction of an FRP pressure vessel in conformance with a manufacturer's design report. It includes production, processing, fabrication, inspection and testing methods required for the vessel. Section X includes three Classes of vessel design; Class I and Class III—qualification through the destructive test of a prototype and Class II—mandatory design rules and acceptance testing by nondestructive methods. These vessels are not permitted to store, handle or process lethal fluids. Vessel fabrication is limited to the following processes: bag-molding, centrifugal casting and filament-winding and contact molding. General specifications for the glass and resin materials and minimum physical properties for the composite materials are given.

ASME BPVC.XI–2015, *Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components.* This section contains Division 1 and 3, in one volume and provides rules for the examination, inservice testing and inspection, and repair and replacement of components and systems in light water cooled and liquid metal cooled nuclear power plants. The Division 2 rules for inspection and testing of components of gas cooled nuclear power plants have been deleted in the 1995 Edition. With the decommissioning of the only gas cooled reactor to which these rules apply, there is no apparent need to continue publication of Division 2. Application of this section of the code begins when the requirements of the Construction Code have been satisfied. The rules of this section constitute requirements to maintain the nuclear power plant while in operation and to return the plant to service, following plant outages, and repair or replacement activities. The rules require a mandatory program of scheduled examinations, testing, and inspections to evidence adequate safety.

The method of nondestructive examination to be used and flaw size characterization are also contained within this section

ASME BPVC.XII–2015, *Section XII, Rules for Construction and Continued Service of Transport Tanks.* This section covers requirements for construction and continued service of pressure vessels for the transportation of dangerous goods via highway, rail, air or water at pressures from full vacuum to 3,000 psig and volumes greater than 120 gallons. ''Construction'' is an all-inclusive term comprising materials, design, fabrication, examination, inspection, testing, certification, and over-pressure protection. ''Continued service'' is an all-inclusive term referring to inspection, testing, repair, alteration, and recertification of a transport tank that has been in service. This section contains modal appendices containing requirements for vessels used in specific transport modes and service applications. Rules pertaining to the use of the T ASME Product Certification Marks are included.

ASME BPVC.CC.BPV–2015, *Code Cases, Boilers and Pressure Vessels.* This section provides the approved actions by the BPVC Committee on alternatives intended to allow early and urgent implementation of any revised requirements for boilers and pressure vessels.

ASME BPVC.CC.NC–2015, *Code Cases, Nuclear Components.* This section provides the approved actions by the BPVC Committee on alternatives intended to allow early and urgent implementation of any revised requirements for nuclear components.

Copies of the complete set of BPVC–2015 is readily available on ASME's website at: *http://www.asme.org.*

B31.1–2016, *Power Piping.* B31.1–2016 prescribes minimum requirements for the design, materials, fabrication, erection, test, inspection, operation, and maintenance of piping systems typically found in electric power generating stations, industrial and institutional plants, geothermal heating systems, and central and district heating and cooling systems. It also covers boiler-external piping for power boilers and high temperature, high pressure water boilers in which steam or vapor is generated at a pressure of more than 15 psig; and high temperature water is generated at pressures exceeding 160 psig and/or temperatures exceeding 250 degrees Fahrenheit. Copies of B31.1–2016 is readily available on ASME's website at: *http://www.asme.org.*

B31.3–2014, *Process Piping.* B31.3–2014 contains requirements for piping typically found in petroleum refineries, chemical, pharmaceutical, textile, paper, semiconductor, and cryogenic plants; and related processing plants and terminals. It covers materials and components, design, fabrication, assembly, erection, examination, inspection, and testing of piping. Copies of B31.3–2016 is readily available on ASME's website at: *http://www.asme.org.*

B31.4–2016, *Pipeline Transportation Systems for Liquids and Slurries.* B31.4–2016 prescribes requirements for the design, materials, construction, assembly, inspection, testing, operation, and maintenance of liquid pipeline systems between production fields or facilities, tank farms, above- or belowground storage facilities, natural gas processing plants, refineries, pump stations, ammonia plants, terminals (marine, rail, and truck), and other delivery and receiving points, as well as pipelines transporting liquids within pump stations, tank farms, and terminals associated with liquid pipeline systems. This Code also prescribes requirements for the design, materials, construction, assembly, inspection, testing, operation, and maintenance of piping transporting aqueous slurries of nonhazardous materials such as coal, mineral, ores, concentrates, and other solid materials, between a slurry processing plant or terminal and a receiving plant or terminal. Copies of B31.4–2016 is readily available on ASME's website at: *http://www.asme.org.*

B31.5–2016, *Refrigeration Piping and Heat Transfer Components.* B31.5–2016 covers refrigerant, heat transfer components, and secondary coolant piping for temperatures as low as −320 degrees Fahrenheit, whether erected on the premises or factory assembled. The standard also includes all connecting refrigerant and secondary coolant piping starting at the first joint adjacent to such apparatus. Copies of B31.5–2016 is readily available on ASME's website at: *http://www.asme.org.*

B31.8–2016, *Gas Transmission and Distribution Piping Systems.* B31.8–2014 is the most widely used code for the design, operation, maintenance, and repair of natural gas distribution and transmission pipelines. Copies of B31.8–2014 is readily available on ASME's website at: *http://www.asme.org.*

B31.8S–2014, *Managing System Integrity of Gas Pipelines.* B31.8S–2014 covers on-shore, gas pipeline systems constructed with ferrous materials, including pipe, valves, appurtenances attached to pipe, compressor units, metering station, regulator stations, delivery stations, holders and fabricated assemblies. Its principles, processes and approaches apply to the entire system for all pipeline systems. Copies of B31.8S–2014 is readily available on ASME's website at: *http://www.asme.org.*

B31.9–2014, *Building Services Piping.* B31.9–2014 provides rules for piping in industrial, institutional, commercial and public building, and multi-unit residences, which does not require the range of sizes, pressures, and temperatures covered in ASME's B31.1 Codes for Power Piping. It includes piping systems either in the building or within the property limits. Copies of B31.9–2014 is readily available on ASME's website at: *http://www.asme.org.*

B31G–2012, *Manual for Determining Remaining Strength of Corroded Pipelines.* B31G–2012 provides guidance in the evaluation of metal loss in pressurized pipeline and piping systems. The manual is applicable to all pipelines and piping systems that are part of ASME B31 Code for Pressure Piping. Copies of B31G–2012 is readily available on ASME's website at: *http://www.asme.org.*

DOE incorporates by reference the following specific consensus standards for building codes published by National Fire Protection Association (NFPA):

NFPA 70 (2017), *National Electric Code.* NFPA 70 covers the requirements on electrical wiring and equipment installation issues, including minimum provisions for the use of connections, voltage markings, conductors, and cables. Chapters address specific circumstances surrounding special occupancies and industrial equipment and machines. It also contains specific details on the safe installation and use of communications and signaling conductors. Copies of NFPA 70 (2017), is readily available on NFPA's website at: *http://catalog.nfpa.org.*

NFPA 70E (2015), Standard for Electrical Safety in the Workplace. NFPA 70E (2015) is an industry accepted standard that encompass safety-related work practices, safety-related maintenance requirements, and safety requirements for special equipment. The standard includes guidance for making hazard identification and risk assessments, selecting appropriate personal protective equipment, establishing an electrically safe work condition, and employee training. Copies of NFPA 70E (2015), is readily available on NFPA's website at: *http://catalog.nfpa.org.*

III. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

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

The regulatory amendments in this notice of final rulemaking reflect technical amendments, and clarify DOE's intent to continue to later versions of specific safety and health standards Rights and obligations under 10 CFR part 851 are unaltered and as such, are not subject to the requirement for a general notice of proposed rulemaking under the Administrative Procedure Act (5 U.S.C. 553(a)(2)) (APA). There is no requirement under the APA or any other law that this rule be proposed for public comment. Consequently, this rulemaking is exempt from the requirements of the Regulatory Flexibility Act.

C. Review Under the Paperwork Reduction Act

This final rule does not impose a collection of information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule amends existing regulations without changing the environmental effect of the regulations being amended, and, therefore, is covered under the Categorical Exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b)(2) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any, to be given to the regulation; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any, to be given to the regulation; (5) defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined this rule and has determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. DOE has determined that this regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

H. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OIRA, which is part of OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action is not a significant energy action. Accordingly,

DOE has not prepared a Statement of Energy Effects.

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

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

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

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

K. Administrative Procedure Act

An agency may find good cause to exempt a rule from the requirement for a notice of proposed rulemaking and the opportunity for public comment under the APA if the requirement is determined to be unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 533(b)(3)(B). The rule updates the industry safety and health standards incorporated by reference in 10 CFR part 851. The updates are strictly technical amendments. Consequently, good cause exists for issuing this amendment as a final rule as notice and comment is unnecessary.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rulemaking. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

V. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 851

Civil penalty, Federal buildings and facilities, Incorporation by reference, Occupational safety and health, Reporting and recordkeeping requirements, Safety.

Issued in Washington, DC, on December 12, 2017.

Matthew B. Moury,

Associate Under Secretary for Environment, Health, Safety and Security.

For the reasons set forth in the preamble, the Department of Energy amends part 851 of chapter III of title 10 of the Code of Federal Regulations as set forth below:

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 1. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.;* 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.*

■ 2. Section 851.23 is amended by:
■ a. Removing in paragraph (a)(2), ''1904.44,'';
■ b. Revising paragraphs (a)(9) and (10);
■ c. Removing in paragraph (a)(11), ''(2000)'', and adding in its place ''(2014)'';
■ d. Removing in paragraph (a)(12), ''(1999)'', and adding in its place ''(2012)'';
■ e. Removing in paragraph (a)(13), ''(2005)'', and adding in its place ''(2017)''; and
■ f. Removing in paragraph (a)(14), ''(2004)'', and adding in its place ''(2015)'';

The revisions read as follows:

§ 851.23 Safety and health standards.

(a) * * *

(9) American Conference of Governmental Industrial Hygienists (ACGIH®), ''Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices,'' (2016) (incorporated by reference, see § 851.27) when the ACGIH® Threshold Limit Values (TLVs) are lower (more protective) than permissible exposure limits in 29 CFR part 1910 for general industry and/or part 1926 for construction. When the ACGIH TLVs are used as exposure limits, contractors must nonetheless comply with the other provisions of any applicable expanded health standard found in 29 CFR part 1910 and/or part 1926.

(10) American National Standards Institute (ANSI/ASSE) Z88.2, ''American National Standard Practices for Respiratory Protection,'' (2015) (incorporated by reference, see § 851.27).

* * * * *

§ 851.26 [Amended]

■ 3. Section 851.26 is amended:
■ a. In paragraph (a)(2) by removing ''DOE Manual 231.1–1A, Environment, Safety and Health Reporting Manual, September 9, 2004 (incorporated by reference, see § 851.27)'' and adding in its place ''DOE reporting directives.'';
■ b. In paragraph (a)(3) by removing ''in DOE Manual 231.1–1A.'' and adding in its place ''by DOE.''; and
■ c. In paragraph (b)(2) by removing ''(reference DOE Order 225.1A, Accident Investigations, November 26, 1997)''.

■ 4. Section 851.27 is revised to read as follows:

§ 851.27 Materials incorporated by reference.

(a) *General.* We incorporate by reference the following standards into part 851. The material has been approved for incorporation by the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect the DOE regulations unless and until amended by DOE. Material is incorporated as it exists on the date of the approval. To use a subsequent amendment to a standard, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Environment, Health, Safety and Security, Office of Worker Safety and Health Policy, 1000 Independence Ave. SW, Washington, DC 20585. 301–903–6061. The material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* Standards can be obtained from the sources listed below.

(b) *ACGIH®.* American Conference of Governmental Industrial Hygienist, 1330 Kemper Meadow Drive, Cincinnati, OH 45240. Telephone number: 513–742–2020, or go to: *http://www.acgih.org.*

(1) ACGIH®, *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices,* 2016; IBR approved for § 851.23.

(2) Reserved.

(c) *ANSI.* American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036. Telephone number: 202–293–8020, or go to: *http://www.ansi.org.*

(1) ANSI Z49.1–2012, *American National Standard Safety in Welding, Cutting and Allied Processes,* sections 4.3 and E4.3, ANSI approved March 9, 2012, IBR approved for § 851.23.

(2) ANSI/ASSE Z88.2–2015, *American National Standard Practices for Respiratory Protection,* ANSI approved March 4, 2015, IBR approved for § 851.23.

(3) ANSI Z136.1–2014, *American National Standard for Safe Use of Lasers,* ANSI approved December 10, 2013, IBR approved for § 851.23.

(d) *ASME.* American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, NJ 07007. Telephone: 800–843–2763, or got to: *http://www.asme.org.*

(1) ASME Boilers and Pressure Vessel Codes (BPVC) as follows:

(i) BPVC.I–2015, *Section I—Rules for Construction of Power Boilers,* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(ii) BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (Beginning to SA–450),* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(iii) BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (SA–451 to End),* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(iv) BPVC.II.B–2015, *Section II—Materials, Part B—Nonferrous Material Specifications,* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(v) BPVC.II.C–2015, *Section II—Materials, Part C—Specification for Welding Rods; Electrodes, and Filler Metals;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(vi) BPVC.II.D.C–2015, *Section II—Materials, Part D—Properties (Customary);* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety

(vii) BPVC.II.D.M–2015, *Section II—Materials, Part D—Properties (Metric);* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(viii) BPVC.III.A–2015, *Section III—Rules for Construction of Nuclear Facility Components, Appendices;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(ix) BPVC.III.1.NB–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(x) BPVC.III.1.NC–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xi) BPVC.III.1.ND–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xii) BPVC.III.1.NE–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xiii) BPVC.III.1.NF–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xiv) BPVC.III.1.NG–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures;* 2015 edition, issued July 1 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xv) BPVC.III.1.NH–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xvi) BPVC.III.NCA–2015, *Section III—Rules for Construction of Nuclear Facility; Components, Subsection NCA, General Requirements for Division 1 and Division 2;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xvii) BPVC.III.2–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xviii) BPVC.III.3–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containments for Transportation and Storage of Spent Nuclear Fuel and High Level Radioactive Material and Waste;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xix)) BPVC.III.5–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xx) BPVC.IV–2015, *Section IV, Rules for Construction of Heating Boilers;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxi) BPVC.V–2015, *Section V, Nondestructive Examination;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxii) BPVC.VI–2015, *Section VI, Recommended Rules for the Care and Operation of Heating Boilers;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxiii) BPVC.VII–2015, *Section VII, Recommended Guidelines for the Care of Power Boilers;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxiv) BPVC.VIII.1–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 1;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxv) BPVC.VIII.2–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxvi) BPVC.VIII.3–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxvii) BPVC.IX–2015, *Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures; Welders; Brazers; and Welding, Brazing, and Fusing Operators;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxviii) BPVC.X–2015, *Section X, Fiber—Reinforced Plastic Pressure Vessels;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxix) BPVC.XI–2015, *Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxx) BPVC.XII–2015, *Section XII, Rules for Construction and Continued Service of Transport Tanks;* issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety;

(xxxi) BPVC.CC.BPV–2015, *Code Cases, Boilers and Pressure Vessels;* 2015 edition, issued July 1, 2015; IBR approved for appendix A, section 4, Pressure Safety; and

(xxxii) BPVC.CC.NC–2015, *Code Cases, Nuclear Components;* issued July 1, 2015, IBR approved for appendix A, section 4, Pressure Safety.

(2) ASME B31 codes for pressure piping as follows:

(i) B31.1–2016, *Power Piping, ASME Code for Pressure Piping, B31,* issued June 30, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(ii) B31.3–2014, *Process Piping, ASME Code for Pressure Piping, B31,* issued February 27, 2015; IBR approved for appendix A, Section 4, Pressure Safety;

(iii) B31.4–2016, *Pipeline Transportation Systems for Liquids and Slurries, ASME Code for Pressure Piping, B31,* issued March 31, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(iv) B31.5–2016, *Refrigeration Piping and Heat Transfer Components, ASME Code for Pressure Piping, B31,* issued June 29, 2016; IBR approved for appendix A, Section 4, Pressure Safety;

(v) B31.8–2016, *Gas Transmission and Distribution Piping Systems,* ASME Code for Pressure Piping, B31, issued September 30, 2014; IBR approved for appendix A, Section 4, Pressure Safety;

(vi) B31.8S–2014, *Managing System Integrity of Gas Pipelines, ASME Code for Pressure Piping, B31, Supplement to ASME B31.8,* issued September 30, 2014; IBR approved for appendix A, Section 4, Pressure Safety;

(vii) B31.9–2014, *Building Services Piping, ASME Code for Pressure Piping, B31,* issued April 28, 2014; IBR approved for appendix A, Section 4, Pressure Safety; and

(viii) B31G–2012, *Manual for Determining the Remaining Strength of Corroded Pipelines, Supplement to ASME B31 Code for Pressure Piping,* issued October 24, 2012; IBR approved for appendix A, Section 4, Pressure Safety.

(e) *NFPA.* The National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169. Telephone: 617–984–7423, or go to: *http://www.nfpa.org.*

(1) NFPA 70, *National Electric Code,* (2017), issued August 4, 2016; IBR approved for § 851.23; and

(2) NFPA 70E, *Standard for Electrical Safety in the Workplace,* (2015 edition), issued July 14, 2014; IBR approved for § 851.23.

■ 5. Appendix A to part 851 is amended:

■ a. In section 3, Explosives Safety, by revising paragraph (b);

■ b. In section 4, Pressure Safety, by revising paragraphs (b)(1) and (2); and

■ c. In section 6, Industrial Hygiene, by revising paragraph (f).

The revisions read as follows:

Appendix A to Part 851—Worker Safety and Health Functional Areas

* * * * *

3. Explosives Safety

* * * * *

(b) Contractors must comply with the policy and requirements specified in the appropriate explosives safety technical standard.

* * * * *

4. Pressure Safety

* * * * *

(b) * * *

(1) The applicable American Society of Mechanical Engineers (ASME) boilers and pressure vessel codes (BPVC), including applicable code cases as indicated in paragraphs (b)(1)(i) through (xxxii) of this section:

(i) BPVC.I–2015, *Section I—Rules for Construction of Power Boilers* (incorporated by reference, see § 851.27);

(ii) BPVC.II.A–2015, *Section II-Materials, Part A—Ferrous Material Specifications (Beginning to SA–450)* (incorporated by reference, see § 851.27);

(iii) BPVC.II.A–2015, *Section II—Materials, Part A—Ferrous Material Specifications (SA–451 to End)* (incorporated by reference, see § 851.27);

(iv) BPVC.II.B–2015, *Section II—Materials, Part B—Nonferrous Material Specifications* (incorporated by reference, see § 851.27);

(v) BPVC.II.C–2015, *Section II—Materials, Part C-Specification for Welding Rods; Electrodes, and Filler Metals* (incorporated by reference, see § 851.27);

(vi) BPVC.II.D.C–2015, *Section II—Materials, Part D—Properties (Customary)* (incorporated by reference, see § 851.27);

(vii) BPVC.II.D.M–2015, *Section II—Materials, Part D—Properties (Metric)* (incorporated by reference, see § 851.27);

(viii) BPVC.III.A–2015, *Section III—Rules for Construction of Nuclear Facility Components, Appendices* (incorporated by reference, see § 851.27);

(ix) BPVC.III.1.NB–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NB, Class 1 Components* (incorporated by reference, see § 851.27);

(x) BPVC.III.1.NC–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NC, Class 2 Components* (incorporated by reference, see § 851.27);

(xi) BPVC.III.1.ND–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection ND, Class 3 Components* (incorporated by reference, see § 851.27);

(xii) BPVC.III.1.NE–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NE, Class MC Components* (incorporated by reference, see § 851.27);

(xiii) BPVC.III.1.NF–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NF, Supports* (incorporated by reference, see § 851.27);

(xiv) BPVC.III.1.NG–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NG, Core Support Structures* (incorporated by reference, see § 851.27);

(xv) BPVC.III.1.NH–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division I—Subsection NH, Class 1 Components in Elevated Temperature Service* (incorporated by reference, see § 851.27);

(xvi) BPVC.III.NCA–2015, *Section III—Rules for Construction of Nuclear Facility; Components, Subsection NCA, General Requirements for Division 1 and Division 2* (incorporated by reference, see § 851.27);

(xvii) BPVC.III.2–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 2, Code for Concrete Containments* (incorporated by reference, see § 851.27);

(xviii) BPVC.III.3–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 3, Containment for Transportation and Storage of Spent Nuclear Fuel and High Level Radioactive Material and Waste* (incorporated by reference, see § 851.27);

(xix) BPVC.III.5–2015, *Section III—Rules for Construction of Nuclear Facility Components, Division 5, High Temperature Reactors* (incorporated by reference, see § 851.27);

(xx) BPVC.IV–2015, *Section IV, Rules for Construction of Heating Boilers* (incorporated by reference, see § 851.27);

(xxi) BPVC.V–2015, *Section V, Nondestructive Examination* (incorporated by reference, see § 851.27);

(xxii) BPVC.VI–2015, *Section VI, Recommended Rules for the Care and Operation of Heating Boilers* (incorporated by reference, see § 851.27);

(xxiii) BPVC.VII–2015, *Section VII, Recommended Guidelines for the Care of Power Boilers* (incorporated by reference, see § 851.27);

(xxiv) BPVC.VIII.1–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 1* (incorporated by reference, see § 851.27);

(xxv) BPVC.VIII.2–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 2, Alternative Rules* (incorporated by reference, see § 851.27);

(xxvi) BPVC.VIII.3–2015, *Section VIII—Rules for Construction of Pressure Vessels, Division 3, Alternative Rules for Construction of High Pressure Vessels* (incorporated by reference, see § 851.27);

(xxvii) BPVC.IX–2015, *Section IX—Welding, Brazing and Fusing Qualifications, Qualification Standard for Welding, Brazing, and Fusing Procedures; Welders; Brazers;*

and Welding, Brazing, and Fusing Operators (incorporated by reference, see § 851.27);

(xxviii) BPVC.X–2015, *Section X, Fiber—Reinforced Plastic Pressure Vessels* (incorporated by reference, see § 851.27);

(xxix) BPVC.XI–2015, *Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components* (incorporated by reference, see § 851.27);

(xxx) BPVC.XII–2015, *Section XII, Rules for Construction and Continued Service of Transport Tanks* (incorporated by reference, see § 851.27);

(xxxi) BPVC.CC.BPV–2015, *Code Cases, Boilers and Pressure Vessels* (incorporated by reference, see § 851.27); and

(xxxii) BPVC.CC.NC–2015, *Code Cases, Nuclear Components* (incorporated by reference, see § 851.27).

(2) The applicable ASME B31 code for pressure piping as indicated in this paragraph; and or as indicated in paragraph (b)(3) of this section:

(i) B31.1–2016, *Power Piping* (incorporated by reference, see § 851.27);

(ii) B31.3–2014, *Process Piping* (incorporated by reference, see § 851.27);

(iii) B31.4–2016, *Pipeline Transportation Systems for Liquids and Slurries* (incorporated by reference, see § 851.27);

(iv) B31.5–2016, *Refrigeration Piping and Heat Transfer Components* (incorporated by reference, see § 851.27);

(v) B31.8–2016, *Gas Transmission and Distribution Piping Systems* (incorporated by reference, see § 851.27);

(vi) B31.8S–2014, *Managing System Integrity of Gas Pipelines* (incorporated by reference, see § 851.27);

(vii) B31.9–2014, *Building Services Piping* (incorporated by reference, see § 851.27); and

(viii) B31G–2012, *Manual for Determining the Remaining Strength of Corroded Pipelines* (incorporated by reference, see § 851.27).

* * * * *

6. Industrial Hygiene

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(f) Use of respiratory protection equipment tested under the DOE Respirator Acceptance Program for Supplied-Air Suits when the National Institute for Occupational Safety and Health-approved respiratory protection does not exist for DOE tasks that require such equipment. For security operations military type masks for respiratory protection by security personnel is acceptable.

* * * * *

[FR Doc. 2017–27190 Filed 12–15–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0513; Product Identifier 2016–NM–152–AD; Amendment 39–19125; AD 2017–25–11]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 2000EX airplanes. This AD was prompted by a quality review of delivered airplanes, which identified a manufacturing deficiency of some engine air inlet anti-ice ''piccolo'' tubes. This AD requires inspecting each anti-ice ''piccolo'' tube assembly of certain engine air inlets for discrepancies, and doing corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 22, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 22, 2018.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0513.

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–2017–0513; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Dassault Aviation Model FALCON 2000EX airplanes. The NPRM published in the **Federal Register** on May 31, 2017 (82 FR 24900) (''the NPRM''). The NPRM was prompted by a quality review of delivered airplanes, which identified a manufacturing deficiency of some engine air inlet anti-ice ''piccolo'' tubes. The NPRM proposed to require inspecting each anti-ice ''piccolo'' tube assembly of certain engine air inlets for discrepancies, and doing corrective actions if necessary. We are issuing this AD to detect and correct discrepancies of each anti-ice ''piccolo'' tube assembly of certain engine air inlets; this condition could result in reduced performance of the engine anti-ice protection system, leading to ice accretion and ingestion into the engines, and possibly resulting in dual engine power loss and consequent reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0168, dated August 17, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000EX airplanes. The MCAI states:

> A quality review of recently delivered aeroplanes identified a manufacturing deficiency of some engine air inlet anti-ice ''piccolo'' tubes.
>
> This condition, if not detected and corrected, could lead to reduced performance of the engine anti-ice protection system, with consequent ice accretion and ingestion, possibly resulting in dual engine power loss and reduced control of an aeroplane.
>
> The subsequent investigation demonstrated that, for engines equipped with an air inlet affected by the manufacturing deficiency, operating an engine at or above the minimum N1 value applicable for combined wing and engine anti-ice operations provides efficient

engine anti-ice performance during stand-alone engine anti-ice operation.

To address this potential unsafe condition, EASA issued EASA AD 2015–0101–E (later revised) to require amendment of the applicable Aeroplane Flight Manual (AFM) for aeroplanes having engine air inlets Part Number (P/N) 06ND71600–1 not marked NORDAM Rework Kit (or ''NRK'') on the associated data plate.

Since that [EASA] AD was issued, Dassault Aviation published Service Bulletin (SB) F2000EX–384 (later revised), providing instructions for a one-time inspection and applicable corrective actions, to recover the full operational capability of the aeroplanes equipped with affected parts.

For the reasons described above, this [EASA] AD supersedes EASA AD 2015–0102R1, retaining its requirements, [and] additionally requires a one-time inspection of each affected anti-ice ''piccolo'' tube assembly and, depending on findings, accomplishment of the applicable corrective actions. This [EASA] AD also prohibits installation of an affected part on an aeroplane.

The required actions include a detailed inspection and borescope inspection for discrepancies, which include determining if the opening diameter of the anti-ice tube assembly is incorrect or the perforation holes are blocked by residue. The corrective actions include repair or rework, if necessary. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0513.

Comments

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

Request To Provide Credit for Accomplishing Previous Actions

NetJets Aviation asked that we add Dassault Falcon 2000EX Service Bulletin F2000EX–384, dated January 27, 2016, as a method of compliance for accomplishing the actions specified in paragraph (g) of the proposed AD. NetJets Aviation stated that those actions are done as specified in Dassault Falcon 2000EX Service Bulletin F2000EX–384, Revision 1, dated March 1, 2016, which specifies that it does not apply to airplanes on which the actions in Dassault Falcon 2000EX Service Bulletin F2000EX–384, dated January 27, 2016, have been done.

We agree with the commenter's request for the reason provided. We have added paragraph (i) to this AD (and redesignated subsequent paragraphs accordingly) to provide credit for the actions performed before the effective date of this AD using Dassault Falcon 2000EX Service Bulletin F2000EX–384, dated January 27, 2016.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Dassault Falcon 2000EX Service Bulletin F2000EX–384, Revision 1, dated March 1, 2016. This service information describes procedures for inspecting each anti-ice ''piccolo'' tube assembly of each engine air inlet for discrepancies, and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 181 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	5 work-hours × $85 per hour = $425	$0	$425	$76,925

We estimate the following costs to do any necessary rework required based on the results of the inspection. We have no way of determining the number of aircraft that might need these corrective actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Rework anti-ice tube assembly	2 work-hours × $85 per hour = $170	$1,711	$1,881

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 transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–11 Dassault Aviation: Amendment 39–19125; Docket No. FAA–2017–0513; Product Identifier 2016–NM–152–AD.

(a) Effective Date

This AD is effective January 22, 2018.

(b) Affected ADs

This AD affects AD 2015–13–08, Amendment 39–18195 (80 FR 37150, June 30, 2015) (''AD 2015–13–08'').

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by a quality review of certain delivered airplanes, which identified a manufacturing deficiency of certain engine air inlet anti-ice ''piccolo'' tubes. We are issuing this AD to detect and correct discrepancies of each anti-ice ''piccolo'' tube assembly of certain engine air inlets; this condition could result in reduced performance of the engine anti-ice protection system, leading to ice accretion and ingestion into the engines, and possibly resulting in dual engine power loss and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Inspection

For airplanes other than those on which an engine air inlet having part number (P/N) 06ND71600–1, with a marking ''NTR–RKFAL97'' ''NTR–RKFAL98,'' ''F2000EX–384,'' or ''F2000EX–384–R1'' on the air inlet data plate has been incorporated on both engines: Within 1,300 flight hours or 26 months after the effective date of this AD, whichever occurs first; inspect each anti-ice ''piccolo'' tube assembly of each engine air inlet for discrepancies (*i.e.,* an incorrect opening diameter of the anti-ice tube assembly or perforation holes blocked by residue), and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Dassault Falcon 2000EX Service Bulletin F2000EX–384, Revision 1, dated March 1, 2016; except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

(h) Service Information Exception

Where Dassault Falcon 2000EX Service Bulletin F2000EX–384, Revision 1, dated March 1, 2016, specifies to contact Dassault for appropriate action: Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Dassault Falcon 2000EX Service Bulletin F2000EX–384, dated January 27, 2016.

(j) Terminating Action

Accomplishment of the actions required by paragraph (g) of this AD terminates all requirements of AD 2015–13–08 for that airplane.

(k) Parts Installation Limitation

As of the effective date of this AD, installation of an engine air inlet having part number (P/N) 06ND71600–1 on any airplane is allowed, provided the engine air inlet data plate shows the marking ''NTR–RKFAL97,'' ''NTR–RKFAL98,'' ''F2000EX–384,'' or ''F2000EX–384–R1.''

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the certification office, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0168, dated August 17, 2016, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0513.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

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

(n) Material Incorporated by Reference

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

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

(i) Dassault Falcon 2000EX Service Bulletin F2000EX–384, Revision 1, dated March 1, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For

information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on December 4, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26841 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0627; Product Identifier 2017–NM–037–AD; Amendment 39–19127; AD 2017–25–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200 Freighter, –200, and –300 series airplanes; and Airbus Model A340–200, –300, –500, and –600 series airplanes. This AD was prompted by a report that the trimmable horizontal stabilizer actuator (THSA) might not function as intended after failure of the primary load path. This AD requires repetitive detailed visual inspections for discrepancies of the THSA upper attachments and no-back housing. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 22, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 22, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330–A340@airbus.com*; internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0627.

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–2017–0627; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A330–200 Freighter, –200, and –300 series airplanes; and Airbus Model A340–200, –300, –500, and –600 series airplanes. The NPRM published in the **Federal Register** on June 30, 2017 (82 FR 29795) (''the NPRM''). The NPRM was prompted by a report that the THSA might not function as intended after failure of the primary load path. The NPRM proposed to require repetitive detailed visual inspections for discrepancies of the THSA upper attachments and no-back housing. We are issuing this AD to detect and correct discrepancies of the THSA upper attachments and no-back housing, which could lead to THSA upper attachment failure and consequent disconnection of the THSA from the airplane structure, possibly resulting in loss of control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0044, dated March 9, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200 Freighter, –200 and –300 series airplanes; and Airbus Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> The Trimmable Horizontal Stabilizer Actuator (THSA), as installed on A330 and A340 aeroplanes, was initially designed to stall when engaging on the upper secondary load path (SLP) after primary load path (PLP) failure. Such stall triggers system monitoring detection. New mission profile analysis revealed that in some cases, the THSA could be operated while engaged on the upper SLP without stalling [*i.e.,* the THSA might not function as intended after failure of the primary load path]. The partial engagement of the SLP at upper attachment level does not trigger any indication to the flight crew.
>
> This condition, if not detected and corrected, could lead to THSA upper attachment failure and consequent disconnection of the THSA from the aeroplane structure, possibly resulting in loss of control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires repetitive detailed [visual] inspections (DET) of the upper THSA attachments parts and the PLP and SLP fuselage attachment points, and, depending on findings (which include, but are not limited to, failure of the primary load path), accomplishment of applicable [additional inspections for discrepancies and] corrective action(s).

The additional inspections include a detailed visual inspection for discrepancies of the upper attachment fitting of the airplane and a detailed visual inspection for discrepancies of the removed THSA. Corrective actions include repair and replacement of the THSA. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0627.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA), expressed its support for the NPRM.

Request To Delay Publication of the Final Rule or Note Discrepancy in Service Information

Delta Airlines (DAL) requested that we delay publication of the final rule or include information regarding a

discrepancy found in Airbus Service Bulletin A330–27–3218, Revision 01, dated December 5, 2016, which specifies to use Aircraft Maintenance Manual (AMM) task 27–44–00–210–805. However, AMM task 27–44–00–210–805 is missing from the A330 AMM revision dated July 1, 2017. DAL preferred to avoid the need for an alternative method of compliance (AMOC) to accomplish the tasks required by Airbus Service Bulletin A330–27–3218, Revision 01, dated December 5, 2016. DAL also contacted Airbus regarding this issue.

We disagree with the request to delay this final rule. We also disagree that information regarding the discrepancy should be specifically included. Although Airbus Service Bulletin A330–27–3218, Revision 01, dated December 5, 2016, specifies to use AMM task 27–44–00–210–805, the service information also includes information to perform a detailed visual inspection using SUBTASK 273218–832–001–001 if AMM task 27–44–00–210–805 is unavailable. Therefore, no changes to this AD are necessary regarding this issue.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information.

- Airbus Service Bulletin A330–27–3218, Revision 01, dated December 5, 2016.
- Airbus Service Bulletin A340–27–4203, Revision 01, dated December 5, 2016.
- Airbus Service Bulletin A340–27–5067, Revision 01, dated December 5, 2016.

This service information describes procedures for detailed visual inspections for discrepancies of the THSA upper attachments and no-back housing, additional inspections for discrepancies, and corrective actions. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 102 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle	$26,010 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the required inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	20 work-hours × $85 per hour = $1,700	$734,661	$736,361

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

Authority for This Rulemaking

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

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

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 transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–13 Airbus: Amendment 39–19127; Docket No. FAA–2017–0627; Product Identifier 2017–NM–037–AD.

(a) Effective Date

This AD is effective January 22, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342 and –343 airplanes; and Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes; certificated in any category, all manufacturer's serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a report that the trimmable horizontal stabilizer actuator (THSA) might not function as intended after failure of the primary load path. We are issuing this AD to detect and correct discrepancies of the THSA upper attachments and no-back housing, which could lead to THSA upper attachment failure and consequent disconnection of the THSA from the airplane structure, possibly resulting in loss of control of the airplane.

(f) Compliance

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

(g) Repetitive Detailed Visual Inspections

Before exceeding the threshold in Table 1 to paragraph (g) of this AD, as applicable, or within 3 months after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed the inspection interval values defined in Table 1 to paragraph (g) of this AD; accomplish a detailed visual inspection for discrepancies of the THSA upper attachments and no-back housing, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable. Where the ''Threshold'' column of table 1 to paragraph (g) of this AD specifies compliance times in ''FH'' (flight hours) or ''FC'' (flight cycles), those compliance times are flight hours or flight cycles since the first flight of the airplane, or since the last accomplishment of Airbus Model A330 or A340 Maintenance Review Board Report task 27.40.00/07, or since the last detailed visual inspection of the THSA done in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 00, A340–27–4203, Revision 00, or A340–27–5067, Revision 00, all dated July 1, 2016, as applicable.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—THSA UPPER ATTACHMENTS/NO-BACK HOUSING INSPECTIONS

Affected airplanes	Compliance times (whichever occurs first, flight hours (FH) or flight cycles (FC))	
	Threshold	Inspection interval (not to exceed)
A330, A340–200 and A340–300	Before 4,000 FH or 1,000 FC	4,000 FH or 1,000 FC
A340–500 and A340–600	Before 4,000 FH or 800 FC	4,000 FH or 800 FC

(h) Additional Inspections and Corrective Actions

(1) If, during any inspection required by paragraph (g) of this AD, any discrepancy identified in the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable, is detected, before further flight, remove the THSA, and accomplish a detailed visual inspection for discrepancies of the upper attachment fitting of the airplane and a detailed visual inspection for discrepancies of the removed THSA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable. As an alternative to the removed THSA inspections required by this paragraph, before further flight, replace the THSA with a serviceable part (as defined in paragraph (i) of this AD).

(2) If, during any inspection of the upper attachment fitting of the airplane required by paragraph (h)(1) of this AD, any discrepancy identified in the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable, is detected, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k)(2) of this AD.

(3) If, during any inspection of the removed THSA required by paragraph (h)(1) of this AD, no discrepancy specified in the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable, is detected, before further flight, reinstall the THSA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable.

(4) If, during any inspection of the removed THSA required by paragraph (h)(1) of this AD, any discrepancy specified in the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable, is detected, before further flight, replace the THSA with a serviceable part (as defined in paragraph (i) of this AD), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable.

(i) Definition of Serviceable THSA

For the purpose of this AD, a serviceable THSA is a part that has accumulated less than 4,000 FH or 1,000 FC (for Airbus Model A330, A340–200, or A340–300 airplanes) or 4,000 FH or 800 FC (for Airbus Model A340–500 or A340–600 airplanes), whichever occurs first since the first flight of the airplane, or since the last overhaul of the THSA, or since the last detailed visual inspection of the THSA in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3218, Revision 01, A340–27–4203, Revision 01, or A340–27–5067, Revision 01, all dated December 5, 2016, as applicable.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g), (h)(1), (h)(3), and (h)(4) of this AD, if those actions were performed before the effective date of this AD using the service information specified in

paragraph (j)(1), (j)(2), or (j)(3) of this AD, as applicable.

(1) Airbus Service Bulletin A330–27–3218, Revision 00, dated July 1, 2016.

(2) Airbus Service Bulletin A340–27–4203, Revision 00, dated July 1, 2016.

(3) Airbus Service Bulletin A340–27–5067, Revision 00, dated July 1, 2016.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (h)(2) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0044, dated March 9, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0627.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

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

(m) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A330–27–3218, Revision 01, dated December 5, 2016.

(ii) Airbus Service Bulletin A340–27–4203, Revision 01, dated December 5, 2016.

(iii) Airbus Service Bulletin A340–27–5067, Revision 01, dated December 5, 2016.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330–A340@airbus.com;* internet: *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on December 5, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26837 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1170; Product Identifier 2013–NM–054–AD; Amendment 39–19129; AD 2017–25–15]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR42–300 and –500 airplanes and Model ATR72–202 and –212A airplanes. This AD requires identifying the serial number of the dual distributor valve (DDV), and replacement of affected DDVs. This AD was prompted by an investigation performed on a failed DDV that revealed a nonconformity of crimping on an internal valve. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective January 2, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 2, 2018.

We must receive comments on this AD by February 1, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this final rule, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr-aircraft.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1170.

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–2017–1170; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone

800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive, 2013–0032, dated February 18, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain ATR–GIE Avions de Transport Régional Model ATR42–300 and –500 airplanes and Model ATR72–202 and –212A airplanes. The MCAI states:

During the investigation performed on a failed dual distributor valve (DDV) shipped to the DDV manufacturer, a non-conformity of crimping on an internal valve has been detected by the DDV manufacturer. This defective crimping creates a lack of tightness that prevents the complete deflation of the related de-icing boot chamber during de-icing cycles.

A batch of serialized DDV, potentially affected with the same manufacturing discrepancy, has been identified by the DDV manufacturer.

This condition, if not detected and corrected, may affect the efficiency of the pneumatic de-icing system, which could reduce flight safety in icing conditions.

For the reasons described above, this AD requires a one-time inspection of each DDV to identify the serial number (s/n) and replacement of the non-conforming DDV units.

The affected DDV units installed on aeroplanes and those delivered as spares have been retraced by ATR and all non-installed spare units have been quarantined, which is why this AD only applies to specific MSN [manufacturer serial number] aeroplanes.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1170.

Related Service Information Under 1 CFR Part 51

Avions de Transport Régional has issued the following service information:

- ATR Service Bulletin ATR42–30–0080, Revision 02, dated March 26, 2013.
- ATR Service Bulletin ATR42–30–0081, Revision 02, dated March 26, 2013.
- ATR Service Bulletin ATR72–30–1049, Revision 03, dated March 26, 2013.
- ATR Service Bulletin ATR72–30–1050, Revision 03, dated March 26, 2013.

This service information describes procedures for identifying and replacing affected DDVs. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

There are currently no domestic operators of this product. Therefore, we find good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1170; Product Identifier 2013–NM–054–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

Currently, there are no affected airplanes on the U.S. Register. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD. We estimate that it will take about 84 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $12,000 per product. Based on these figures, we estimate the cost of this AD to be $19,140 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 transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–15 ATR—GIE Avions de Transport Régional: Amendment 39–19129; Docket No. FAA–2017–1170; Product Identifier 2013–NM–054–AD.

(a) Effective Date

This AD becomes effective January 2, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(6) of this AD.

Note 1 to the introductory text of paragraph (c) of this AD: In EASA AD 2013–0032, dated February 18, 2013, airplanes specified in paragraphs (c)(1) and (c)(2) of this AD are identified as Group 1 airplanes and airplanes specified in paragraphs (c)(3) through (c)(6) of this AD are identified as Group 2 airplanes.

(1) Model ATR42–500 airplanes: Manufacturer serial numbers (MSNs) 645, 653, 657, 659, 661, 663, and 665.

(2) Model ATR72–212A airplanes: MSNs 778, 994, 995, 996, 998, 999, 1000, and 1020.

(3) Model ATR42–300 airplanes: MSNs 348 and 415.

(4) Model ATR42–500 airplanes: MSNs 497, 501, and 514.

(5) Model ATR72–202 airplanes: MSNs 192, 411, 496, 508, and 509.

(6) Model ATR72–212A airplanes: MSNs 468, 568, 595, 662, 796, 920, 926, 950, 1024, 1025, 1028, 1029, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1039, and 1040.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by an investigation performed on a failed dual distributor valve (DDV) that revealed a nonconformity of crimping on an internal valve. We are issuing this AD to prevent the deflation of the related deicing boot chamber during deicing cycles, which could result in reduced controllability of the airplane in icing conditions.

(f) Compliance

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

(g) Part Identification

Within 6 months after the effective date of this AD, identify the serial number of the DDV as specified in paragraph (g)(1) or (g)(2) of this AD, as applicable. A review of airplane delivery or maintenance records is acceptable to make the identification as required by this paragraph, provided those records can be relied upon for that purpose, and the serial number of the DDV can be conclusively identified from that review.

(1) For airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, identify the serial number of the engine DDV part number (P/N) B03AA1060, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–30–0081, Revision 02, dated March 26, 2013; or ATR72–30–1050, Revision 03, dated March 26, 2013; as applicable to airplane model.

(2) For airplanes identified in paragraphs (c)(3), (c)(4), (c)(5), and (c)(6) of this AD, identify the serial number of the wing and/or stabilizer DDV, P/N B03AA1031 or B03AA1040, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–30–0080, Revision 02, dated March 26, 2013; or ATR72–30–1049, Revision 03, dated March 26, 2013; as applicable to airplane model.

(h) Definition of Serviceable DDV

For purposes of this AD, a serviceable DDV is any DDV having a serial number listed in figure 1 to paragraphs (h) and (i) of this AD with a suffix ''R'' added to the serial number.

Figure 1 to paragraphs (h) and (i) of this AD – *Affected DDVs*

PART NUMBER	SERIAL NUMBER
B03AA1031	116
B03AA1031	T1228, T1583, T2132, T2160, T2321, and T2537
B03AA1040	318, 369, 377, 402, 506, 591, 637, 1082, 1215, 1303, 1331, 1662, 1672, 1676, 2175, and 2748 through 2769 inclusive
B03AA1040	T1531
B03AA1060	693, and 1332 through 1351 inclusive

(i) Corrective Action

If, during the part identification required by paragraph (g) of this AD, any DDV identified in figure 1 to paragraphs (h) and (i) of this AD is found: At the applicable time specified in figure 2 to the introductory text of paragraph (i) of this AD, depending on the location and the number of DDV affected, and on whether the airplane is operated in icing conditions or under Extended Operations (ETOPS) rules, replace any affected DDV(s) with a new or serviceable DDV, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (i)(1) through (i)(4) of this AD.

Figure 2 to the introductory text of paragraph (i) of this AD – *Compliance times*

Location and number of affected DDVs	Not operated in icing conditions or ETOPS rules	Operated in icing conditions or under ETOPS rules
Wing or Engine area, more than 1 DDV	Within 3 days after the DDV identification required by paragraph (g) of this AD	Before the next flight
Horizontal Stabilizer area, 1 DDV	Within 3 days after the DDV identification required by paragraph (g) of this AD	Before the next flight
Engine area, 1 of 2 DDVs	Within 10 days after the DDV identification required by paragraph (g) of this AD	Before the next flight
Wing area, 1 of 4 DDVs	Within 10 days after the DDV identification required by paragraph (g) of this AD	Before the next flight

(1) For airplanes identified in paragraphs (c)(3) and (c)(4) of this AD: ATR Service Bulletin ATR42–30–0080, Revision 02, dated March 26, 2013.

(2) For airplanes identified in paragraph (c)(1) of this AD: ATR Service Bulletin ATR42–30–0081, Revision 02, dated March 26, 2013.

(3) For airplanes identified in paragraphs (c)(5) and (c)(6) of this AD: ATR Service Bulletin ATR72–30–1049, Revision 03, dated March 26, 2013.

(4) For airplanes identified in paragraph (c)(2) of this AD: ATR Service Bulletin ATR72–30–1050, Revision 03, dated March 26, 2013.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraphs (j)(1) through (j)(10) of this AD, as applicable. This service information is not incorporated by reference in this AD.

(1) ATR Service Bulletin ATR42–30–0080, dated October 18, 2012 (for Model ATR42–300 and –500 airplanes).

(2) ATR Service Bulletin ATR42–30–0080, Revision 01, dated February 5, 2013 (for Model ATR42–300 and –500 airplanes).

(3) ATR Service Bulletin ATR42–30–0081, dated October 18, 2012 (for Model ATR42–500 airplanes).

(4) ATR Service Bulletin ATR42–30–0081, Revision 01, dated February 5, 2013 (for Model ATR42–500 airplanes).

(5) ATR Service Bulletin ATR72–30–1049, dated October 4, 2012 (for Model ATR72–202 and –212A airplanes).

(6) ATR Service Bulletin ATR72–30–1049, Revision 01, dated October 10, 2012 (for Model ATR72–202 and –212A airplanes).

(7) ATR Service Bulletin ATR72–30–1049, Revision 02, dated February 5, 2013 (for Model ATR72–202 and –212A airplanes).

(8) ATR Service Bulletin ATR72–30–1050, dated October 4, 2012 (for Model ATR72–212A airplanes).

(9) ATR Service Bulletin ATR72–30–1050, Revision 01, dated November 6, 2012 (for Model ATR72–212A airplanes).

(10) ATR Service Bulletin ATR72–30–1050, Revision 02, dated February 5, 2013 (for Model ATR72–212A airplanes).

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2013–0032, dated February 18, 2013, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1170.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

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

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) ATR Service Bulletin ATR42–30–0080, Revision 02, dated March 26, 2013.

(ii) ATR Service Bulletin ATR42–30–0081, Revision 02, dated March 26, 2013.

(iii) ATR Service Bulletin ATR72–30–1049, Revision 03, dated March 26, 2013.

(iv) ATR Service Bulletin ATR72–30–1050, Revision 03, dated March 26, 2013.

(3) For service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr-aircraft.com.*

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

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

Issued in Renton, Washington, on December 6, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26949 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0807; Product Identifier 2017–NM–080–AD; Amendment 39–19126; AD 2017–25–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracking in the webs of the stub beams at certain fuselage stations. These cracks are the result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads. This AD requires repetitive inspections for cracking of the webs of the stub beams at certain fuselage stations, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 22, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 22, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0807.

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–2017–0807; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on August 30, 2017 (82 FR 41179). The NPRM was prompted by reports of cracking in the webs of the stub beams at certain fuselage stations. These cracks are a result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads. The NPRM proposed to require repetitive inspections for cracking of the webs of the stub beams at certain fuselage stations, and applicable on-condition actions.

Comments

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

Support for the NPRM

Boeing concurred with the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions specified in the NPRM.

We concur with the commenter's request. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative methods of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Additional Report of Cracking Since NPRM Was Issued

Since we issued the NPRM, Boeing received a report indicating that stub beam cracking occurred at station (STA) 685 outside of the inspection areas described in Boeing Alert Service Bulletin 737–53A1364, dated May 24,

2017. The cracking occurred at the upper chord inboard corner radius near the buttock line (BL) 45.5 longitudinal floor beam, and the lower chord outboard flange file radius. The cracks were approximately 1.1 and 4.3 inches long, and could be seen while performing the inspections specified in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017. Concurrently with doing the inspections required by paragraphs (g) and (h) of this AD, operators are encouraged to inspect for cracking in the upper chord inboard radius near the BL 45.5 longitudinal floor bean, and the lower chord outboard flange file radius of the STA 685 stub beam. We are considering issuing a separate rulemaking action to address the stub beam cracking at STA 685 that occurred outside of the inspection areas specified in this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017. This service information describes procedures for high frequency eddy current and detailed inspections for cracking of the fuselage stub beam webs below the passenger floor at STA 685, STA 695, and STA 706, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 160 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	Up to 13 work-hours × $85 per hour = $1,105 per inspection cycle.	$0	Up to $1,105 per inspection cycle.	Up to $176,800 per inspection cycle.

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

Authority for This Rulemaking

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

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

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 transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–12 The Boeing Company: Amendment 39–19126; Docket No. FAA–2017–0807; Product Identifier 2017–NM–080–AD.

(a) Effective Date

This AD is effective January 22, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/EBD1CEC7B301293E86257CB30045557A?OpenDocument&Highlight=st01219se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking in the webs of the stub beams at certain fuselage stations. These cracks are a result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads. We are issuing this AD to detect and correct cracking in the webs of the stub beams at certain fuselage stations, which, if not corrected, could result in the loss of structural integrity of the airframe during

flight, collapse of the main landing gear, and failure of the pressure deck.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, within 120 days after the effective date of this AD, inspect the stub beam webs for any cracking, and do all applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Required Actions for Group 2, 3, 4, 5, and 6 Airplanes

Except as required by paragraph (i) of this AD: For Group 2, 3, 4, 5, and 6 airplanes, as identified in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017.

(i) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD, the phrase ''the effective date of this AD'' may be substituted for ''the original issue date of this service bulletin,'' as specified in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017.

(2) Where Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, specifies contacting Boeing, and specifies that action as RC: This AD requires using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (i)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

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

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

(k) Related Information

For more information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on December 5, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26834 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2016–0626; A–1–FRL–9972–20–Region 1]

Air Plan Approval; Vermont; Regional Haze Five-Year Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Vermont's Regional Haze Five-Year Progress Report (Progress Report), submitted on February 29, 2016 as a revision to its State Implementation Plan (SIP). Vermont's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing the progress toward reasonable progress goals (RPGs) established for regional haze and a determination of adequacy of the State's existing regional haze SIP. EPA is approving Vermont's Progress Report on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period covering through 2018.

DATES: This rule is effective on January 17, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2016–0626. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England

Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone (617) 918–1697, facsimile (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose.
II. Response to Comment.
III. Final Action.
IV. Statutory and Executive Order Reviews.

I. Background and Purpose

On August 16, 2017, EPA proposed to approve Vermont's Regional Haze Five-Year Progress Report. *See* 82 FR 38864. The Progress Report was submitted by Vermont as a State Implementation Plan (SIP) revision on February 29, 2016. In conjunction with the August 16, 2017 notice of proposed rulemaking (NPR), EPA issued a direct final rule (DFR) approving the Vermont Progress Report. *See* 82 FR 38834. In the DFR, EPA stated that if an adverse comment were to be submitted to EPA by September 15, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received one adverse comment prior to the close of the comment period. Therefore, EPA withdrew the DFR on October 13, 2017. *See* 82 FR 47630. Today's action is a final rule based on the NPR.

A detailed discussion of Vermont's February 29, 2016 SIP revision and EPA's rationale for approving the SIP revision were provided in the DFR and will not be restated here, except to the extent relevant to our response to the public comment we received.

II. Response to Comment

EPA received one adverse comment on its proposed approval of the Vermont Progress Report.

Comment: The commenter stated that Vermont should have considered visibility effects on parks in Canada and ocean marine sanctuaries.

Response: In section 169A(a)(1) of the 1977 Amendment to the Clean Air Act (CAA), Congress created a program for protecting visibility in certain of the nation's national parks and wilderness areas. This section on the CAA establishes as a national goal the ''prevention of any future, and remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. *See* 44 FR 69122, November 30, 1979. The requirements of the visibility program set forth in section 169A of the CAA apply only to these ''mandatory Class I Federal areas.'' When we use the term ''Class I area'' in this and other regional haze actions, we mean a ''mandatory Class I Federal area'' where visibility has been identified as an important value.

The list of 156 areas includes Roosevelt/Campobello International Park (RCIP) located in New Brunswick, Canada. The Vermont Regional Haze Plan for the first planning period affirmed that emissions from Vermont did not contribute to the visibility impairment at this Class I area. *See* 77 FR 11914, February 28, 2012. The Vermont Progress Report confirms, however, that not only has the state reduced visibility impairing emissions consistent with its regional haze SIP, but that the reasonable progress goals for RCIP for the first regional haze planning period have already been met.[1]

Based on the requirements of section 169A of the CAA, EPA finds that the Progress Report appropriately considered the visibility status of nearby Class I areas, including that of the Roosevelt/Campobello International Park in Canada. There are no nearby marine sanctuaries identified as Class I areas.

III. Final Action

EPA is approving Vermont's Regional Haze Five-Year Progress Report SIP revision, submitted by VT DEC on February 29, 2016, as meeting the applicable regional haze requirements set forth in 40 Code of the Federal Regulations (CFR) 51.308(g) and (h).

IV. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small

[1] Visibility impairment is measured by monitors in the Interagency Monitoring of Protected Visual Environments (IMPROVE) program. Due to the proximity of the Moosehorn Wilderness Area IMPROVE monitor to RCIP, the Moosehorn monitor is considered representative of visibility at RCIP. More discussion of the visibility status of RCIP can be found in EPA's proposed approval of the Maine Regional Haze 5-Year Progress Report. *See* 82 FR 33471, July 20, 2017.

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 16, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 6, 2017.

Ken Moraff,

Acting Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart UU—Vermont

■ 2. In § 52.2370, the table in paragraph (e) is amended by adding an entry for ''Vermont Regional Haze Five-Year Progress Report'' at the end of the table to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(e) * * *

VERMONT NON-REGULATORY

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
Vermont Regional Haze Five-Year Progress Report.	Statewide	Submitted 2/29/2016	12/18/2017, [Insert **Federal Register** citation].	

[FR Doc. 2017–27214 Filed 12–15–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 32

[WC Docket No. 14–130, CC Docket No. 80–286; FCC 17–15]

Comprehensive Review of the Uniform System of Accounts, Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, information requirements associated with the Commission's Order, FCC 17–15. In this Order, the Commission minimized the compliance burdens imposed by the Uniform System of Accounts (USOA) on price cap and rate-of-return telephone companies, while ensuring that the Commission retains access to the information it needs to fulfill its regulatory duties. This document is consistent with the Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the rules.

DATES: The amendments to 47 CFR 1.1409(g) and 32.1, published on May 4, 2017 at 82 FR 20833, are effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Robin Cohn, Pricing Policy Division, Wireline Competition Bureau, at (202) 418–2747, or email: *Robin.Cohn@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on December 3, 2017 OMB approved, for a period of three years, the information collection requirements contained in the Commission's *Part 32 Order,* WC Docket No. 14–130, CC Docket No. 80–286, FCC 17–15. The OMB Number is 3060–1247. The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–1247, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on December 3, 2017, for the information collection requirements contained in the Commission's rules at 47 CFR 1.791; 1.1409(g); 32.1; 32.3; 32.11; 32.26; 32.101(c); 32.103; 32.2000(a)(4), (b)(1), (b)(2)(iii), (c)(2)(x), (e)(8), (f)(2)(iii), and (j); 32.2110; 32.2210; 32.2230; 32.2310; 32.2410; 32.2680; 32.2682(c); 32.2690(b); 32.3000; 32.3400(a);

32.3999; 32.4999(f) and (n); 32.5000; 32.5200; 32.5999(g); 32.6110; 32.6120; 32.6230; 32.6310; 32.6410; 32.6510; 32.6530; 32.6560; 32.6610; 32.6620; 32.6999; 32.7200; 32.9000; 65.810; and 65.820(d).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1247.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1247.

OMB Approval Date: December 3, 2017.

OMB Expiration Date: December 31, 2020.

Title: Part 32 Uniform System of Accounts.

Form Number: N/A. Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,176 respondents; 2,458 responses.

Estimated Time per Response: 20–40 hours.

Frequency of Response: One-time, on occasion, and annual reporting requirements; recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 10, 201, 219 through 220, 224, 254(k), 272(e)(3), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 160, 201, 219–220, 224, 254(k), 272(e)(3), and 403.

Total Annual Burden: 103,240 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On February 24, 2017, the Commission released the *Part 32 Order,* WC Docket No. 14–130, CC Docket No. 80–286, FCC 17–15, which minimized the compliance burdens imposed by Uniform System of Accounts (USOA) on price cap and rate-of-return companies, while ensuring that the Commission retains access to the information it needs to fulfill its regulatory duties.

The Commission consolidated Class A and Class B accounts by eliminating the current classification of carriers, which divides incumbent LECs into two classes for accounting purposes based on annual revenues. Carriers subject to part 32's USOA will now only be required to keep Class B accounts.

Pursuant to the *Part 32 Order,* price cap carriers may elect to use generally accepted accounting principles (GAAP) for all regulatory purposes if they: (1) Establish an ''Implementation Rate Difference'' (IRD), which is the difference between pole attachment rates calculated under part 32 and under GAAP as of the last full year preceding the carrier's initial opting out of part 32 accounting requirements; and (2) adjust their annually-computed GAAP-based pole attachment rates by the IRD for a period of 12 years after the election. Alternatively, price cap carriers may elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the part 32 accounts and procedures applicable to pole attachment rates for up to 12 years.

A price cap carrier may be required to submit pole attachment accounting data to the Commission for three years following the effective date of the rule permitting a price cap carrier to elect GAAP accounting. If a pole attacher informs the Commission of a suspected problem with pole attachment rates, the Commission will require the price cap carrier to file its pole attachment data for the state in question. This requirement may be extended for an additional three years, if necessary.

The Commission reduced the accounting requirements for telephone companies with a continuing obligation to comply with part 32 in a number of areas. Telephone companies may: (1) Carry an asset at its purchase price when it was acquired, even if its value has increased or declined when it goes into regulated service; (2) reprice an asset at market value after a merger or acquisition consistent with GAAP; (3) use GAAP principles to determine Allowance-for-Funds-Used-During Construction; and (4) employ the GAAP standard of materiality for price cap carriers. Rate-of-return carriers receiving cost-based support must determine materiality consistent with the general materiality guidelines promulgated by the Auditing Standards Board.

Price cap carriers with a continuing part 32 accounting obligation must maintain continuing property records necessary to track substantial assets and investments in an accurate, auditable manner. The carriers must make such property information available to the Commission upon request. Carriers subject to part 32 must continue to comply with the USOA's depreciation procedures and its rules for cost of removal-and-salvage accounting.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–26942 Filed 12–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 16–408; FCC 17–122]

Updates Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts a regulatory framework to facilitate the delivery of broadband services through satellite constellation networks. The Commission updates, clarifies and streamlines the current rules governing non-geostationary satellite orbit, fixed-satellite service systems to better reflect current technology and promote additional operational flexibility.

DATES: Effective January 17, 2018, except the amendments to §§ 25.114, 25.115, 25.146, and 25.164, which contain information collection requirements that have not been approved by Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing such OMB approval and the effective date of these rule amendments. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** as of January 17, 2018 except for the material contained in § 25.146. The Commission will publish a document in the **Federal Register** announcing the approval date of this material.

FOR FURTHER INFORMATION CONTACT: Clay DeCell, *Clay.DeCell@fcc.gov,* 202–418–0803, or if concerning the information collections in this document, Cathy

Williams, *Cathy.Williams@fcc.gov,* 202–418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 17–122, adopted September 26, 2017, and released September 27, 2017. The full text of the Report and Order is available at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-122A1.pdf.* It is available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

The Commission continues to encourage the development of new broadband services to the American public, including satellite broadband internet access. In this Report and Order and Further Notice of Proposed Rulemaking, the Commission acts to remove regulatory obstacles for companies proposing to provide these services via large, ambitious, non-geostationary-satellite orbit (NGSO), fixed-satellite service (FSS) satellite systems.

17.8–18.3 GHz

We add a secondary FSS allocation in the 17.8–18.3 GHz band. As further explained below, we believe that the power flux-density (PFD) limits we are adopting on space station transmissions in this band will be sufficient to protect the fixed service from harmful interference. In addition, while terrestrial use of this band is significant, there are areas, particularly rural areas, where terrestrial deployment is less dense and by using mitigating techniques like siting considerations, off-axis rejection, and shielding, we expect FSS earth stations will be able to operate successfully without receiving harmful interference. Even if a mobile-service allocation is introduced in the future, there would still be areas where FSS earth stations would be able to deploy, as terrestrial deployment would not likely cover 100 percent of U.S. territory. If interference does occur, earth stations can switch to other bands not shared with terrestrial users or use alternative mitigation techniques. We decline to adopt a primary FSS allocation at this time because we wish to preserve this band as an unrestrained, potential growth band for the terrestrial fixed service in the future and because the Commission is currently studying potential future terrestrial operations in this band. Accordingly, we adopt a secondary FSS allocation in the 17.8–18.3 GHz band, subject to PFD limits as discussed below.

In addition, we believe that, given the mitigation techniques available to FSS operators, there is no need to limit deployment to individually licensed earth stations. Doing so would unnecessarily increase licensing costs on both applicants and Commission staff. In the event of interference to FSS earth stations, whether individually or blanket licensed, FSS operators may switch to alternative frequencies that are not shared with the fixed service. Accordingly, to promote greater use of the spectrum without constraining the primary fixed service, we will allow blanket licensing of earth stations on a secondary basis in this band. In any future authorizations covering blanket-licensed earth stations receiving in the band 17.8–18.3 GHz, the Commission retains the ability to include a condition that requires the operator to notify its customers regarding the potential for receiving interference.

18.3–18.6 GHz and 19.7–20.2 GHz

Consistent with the treatment adopted internationally and in the paired uplink bands, and to permit greater use of these bands, we will allow NGSO FSS systems to operate on an unprotected, non-interference basis with respect to GSO FSS networks in the 18.3–18.6 GHz and 19.7–20.2 GHz bands, subject to international equivalent power flux-density (EPFD) limits as explained below.

18.8–19.3 GHz and 28.6–29.1 GHz

We believe that preserving the 18.8–19.3 GHz and 28.6–29.1 GHz bands for more intensive use by burgeoning NGSO FSS systems will serve the public interest, particularly in light of our decision below to adopt a default presumption that NGSO systems must protect GSO FSS and GSO broadcasting-satellite service (BSS) networks in other bands. While ITU coordination requirements will continue to apply between filings of different administrations, which in turn may limit NGSO FSS operations in the United States, limiting the primary designation in these bands to NGSO FSS systems will give operators of these systems greater flexibility in the coordination discussions and ultimate deployment. Nonetheless, we believe that GSO FSS networks should be given some access to this band, because doing so will increase spectrum use and can be done compatibly with NGSO FSS operations. We therefore will allow GSO FSS operations in the 18.8–19.3 GHz band on an unprotected, non-interference basis with respect to NGSO FSS systems.

With respect to Intelsat's assertion that any limitation of GSO FSS operations in the band to secondary status be applied only to service offered within the United States, we observe that the Commission has historically applied its Ka-band satellite designations to U.S.-licensed operations around the world. While Intelsat asks that we now adopt a regime of priority in the 18.8–19.3 GHz band for operations outside the United States based on ITU filing date, we decline to do so here. The Commission has never previously adopted a priority regime in these bands that relied on the order of an operator's ITU filing. Notably, the ITU's Article 9 coordination procedures do not apply between filings from the same administration. Thus, today, the date of receipt of an ITU coordination request has no bearing on the priority relationship between two U.S.-filed satellite systems, either at the ITU or with the Commission. We upset no interests of existing GSO FSS operators by adopting a new, secondary designation for their use in the 18.8–19.3 GHz band because under the current Commission rules U.S.-authorized GSO FSS operations in this band have no status vis-à-vis U.S.-authorized NGSO FSS operations anywhere in the world. Further, because of the importance of this NGSO FSS primary band, we agree with SpaceX that this designation should continue to govern the relationship between NGSO and GSO systems licensed by the Commission and operating under a U.S. ITU filing, even for operations outside the United States.

Finally, we reject EchoStar's suggestion that we must adopt a ''default mechanism'' in the event that NGSO FSS operators and GSO FSS operators do not reach an agreement on how protection of the NGSO system in the 18.8–19.3 GHz and 28.6–29.1 GHz bands will be achieved. The status of GSO FSS operations in these bands is secondary. They are entitled to no protection from any interference caused by NGSO FSS systems. If there is a dispute as to whether the level of interference caused by GSO FSS transmissions rises to ''harmful interference,'' and therefore violates their secondary status, this question may be taken to the Commission. Since we do not intend to modify the status of GSO FSS operations in these bands, we perceive no benefit to inquiring on this point in the Further Notice.

19.3–19.4 GHz, 19.6–19.7 GHz, and 29.3–29.5 GHz

Given the relatively small and fragmented nature of the 19.3–19.4 GHz, 19.6–19.7 GHz, and 29.3–29.5 GHz band segments, we believe that consistent treatment with international allocations will allow for additional FSS operations without unduly complicating the regulatory environment for satellite operators. Accordingly, we will allow both GSO FSS and NGSO FSS operations in the 19.3–19.4 GHz and 19.6–19.7 GHz bands, subject to PFD limits to protect terrestrial stations as discussed below. Consistent with No. 5.523D of the ITU Radio Regulations, GSO FSS networks will be co-equal with NGSO MSS feeder links in this band. In addition, because both NGSO MSS feeder links and NGSO FSS systems have been proposed in these bands in the current processing rounds, sharing among them will be done under the same sharing mechanism of ΔT/T of 6 percent applicable between NGSO FSS systems, discussed below. This band will continue to be shared on a co-primary basis with the fixed service on the basis of first-in-time coordination. To ensure that both types of operation will be enabled, and consistent with international treatment, we will require NGSO FSS systems to operate on a secondary basis with respect to GSO FSS networks in these bands.

We agree with Inmarsat, however, that permitting NGSO FSS operations in the 29.3–29.5 GHz uplink band at variance with global allocations would add regulatory complication with little apparent benefit because of the relatively small amount of spectrum and typically global nature of NGSO systems. We therefore decline this proposal.

Finally, we are persuaded by commenters that FSS earth stations can receive in the 19.3–19.4 GHz and 19.6–19.7 GHz bands under blanket licenses and on a secondary basis to the fixed service, without imposing constraints on terrestrial stations. The same mitigation techniques noted by commenters regarding the 17.8–18.3 GHz band, including the ability to switch to alternative frequencies if interference were to occur, apply in this band. Even more so, any FSS operators wishing to ensure protection of its earth stations may go through the individual licensing and coordination procedure to do so. Accordingly, we believe that additional, secondary blanket licensing of earth stations is feasible in this band and revise our rules to permit it.

Codification of Frequency Uses

For clarity, the Notice proposed to codify the Ka-band Plan's satellite designations into footnotes to the U.S. Table of Frequency Allocations, and to remove duplicative notes in section 25.202(a)(1), except with respect to those notes concerning terrestrial operations in the 27.5–28.35 GHz and 37.5–40 GHz bands. Similarly, the Commission proposed to incorporate into footnotes to the Table the remaining frequency-use restrictions in section 25.202(a)(1) that were not recently amended in the Commission's Spectrum Frontiers proceeding. Commenters uniformly support this proposal, which we adopt for clarity. As proposed, we also codify the Ka-band Plan in the 27.5 29.5 GHz band by removing the primary fixed and mobile service entries from the 28.35–29.1 GHz and 29.25–29.5 GHz bands within the non-Federal Table of Frequency Allocations. We also add new footnote NG62 to the Allocation Table in order to permit incumbent fixed service licensees to continue to operate as authorized.

In the Notice, the Commission also proposed to specify that, in the 27.5–28.35 GHz band, NGSO FSS systems must operate on an unprotected, non-interference basis with respect to GSO FSS networks. No commenter opposed this proposal, which we adopt consistent with our default treatment of GSO and NGSO operations.

10.7–11.7 GHz and 12.75–13.25 GHz. In moving footnotes from section 25.202(a)(1) into the Table of Allocations, the Commission proposed to specify the limitation on the operation of NGSO FSS earth stations in the 10.7–11.7 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) bands as to individually licensed earth stations only, rather than to gateway earth stations only as currently prescribed. Commenters support this proposal, and none oppose it. Given the renewed interest in these bands by pending and authorized NGSO FSS operators, we believe that specifying individually licensed primary earth stations, consistent with our treatment of other bands shared on an equal basis with the fixed service, is clearer and strikes a better balance between the two services than a strict limitation to gateways. We therefore adopt our proposal.

Parties further argue that blanket licensing of earth stations should be permitted on a secondary basis to the fixed service in these bands. We agree that blanket licensing in the 10.7–11.7 GHz downlink band is appropriate, but decline to allow blanket licensing in the 12.75–13.25 GHz uplink band, where earth stations would be transmitting and could potentially cause interference to terrestrial stations. Regarding the 10.7–11.7 GHz band, the same mitigation techniques noted above in the 17.8–18.3 GHz, 19.3–19.4 GHz, and 19.6–19.7 GHz bands are available to earth station operators. In the event of harmful interference, operators could switch to alternative spectrum not shared with the fixed service, such as the adjacent 11.7–12.2 GHz band. In addition, any operations that require certainty of protection may be individually coordinated and licensed. Accordingly, to allow for opportunistic use without posing a risk of interference to terrestrial services, we will permit blanket licensing of receive earth stations in the 10.7–11.7 GHz band on an unprotected basis.

FSS Frequency List. Finally, rather than attempt to reproduce in section 25.202(a)(1) all of the frequency bands available for FSS, which are already stated completely in the Table of Frequency Allocations in section 2.106, the Notice proposed to use this paragraph only to note the restrictions on FSS not codified in the Table. Commenters argue the frequency list should be retained as a useful and authoritative summary of the Table of Allocations.

Since we are relocating most of the frequency-use restrictions in this paragraph to the Table of Frequency Allocations, we believe that a bare list of FSS frequencies, without notations of status (primary or secondary), other primary uses, restrictions to certain types of FSS systems or designations among FSS systems, coordination obligations, etc., would not be useful even if maintained accurately. And section 25.202(a)(1) has not been accurate since at least 1996, and is incomplete today. Allocated FSS frequency bands above 50.2 GHz are presently omitted from section 25.202(a)(1). These omissions falsely imply, pursuant to section 25.202(b), that the missing frequencies are subject to case-by-case licensing rather than licensing under default service rules in section 25.217. Because of its potential to generate confusion and no apparent benefit, we delete the FSS frequency list in section 25.202(a)(1). We also reject SpaceX's suggestion to note the Ka-band designations in both section 25.202(a)(1) and the Table of Frequency Allocations. We do not wish to recreate the Table in section 25.202(a)(1), an invitation for discrepancies, and see no reason to single out the Ka-band designations over the many other limitations noted in the Table.

Protection of Terrestrial Services

Ka-band PFD Limits. We adopt the ITU PFD limits for both GSO and NGSO space stations in the 17.7–19.7 GHz band. These limits were derived after years of study. As systems typically not limited to U.S. coverage, NGSO constellations must meet these ITU PFD limits outside U.S. territory. Adopting internationally consistent power limits simplifies compliance for both GSO and NGSO operators. However, the ITU PFD limits in the 19.3–19.4 GHz and 19.6–19.7 GHz bands are not well suited for NGSO FSS constellations, as they do not account for the size of the constellation by an ''X'' factor. Therefore, we will apply in these bands the PFD limits in the 17.7–19.3 GHz band which do account for the number of satellites in the constellation. Otherwise, we received no input from fixed service operators, and no technical consensus has developed even among satellite operators regarding an appropriate alternative to apply in the United States. Therefore, we do not have a sufficient record to deviate from the internationally derived limits. Accordingly, we decline to adopt an alternative, aggregate PFD value. In addition, no EPFD limits have been proposed that we could adopt to protect terrestrial services in place of PFD limits. Rather than deviate from the existing ITU PFD limits, we will rely on our waiver policy to address, on a case-by-case basis, whether the ITU PFD limits we are codifying into our rules to protect the fixed service should be modified for a given large NGSO constellation.

Sharing with Other Platforms. The Notice also inquired how we should take into account sharing between NGSO FSS systems and non-satellite technologies and platforms. Lockheed offers considerations for sharing between NGSO FSS systems and stations on aerial platforms that operate in the fixed service, and notes that further study is needed. We agree that this issue warrants future consideration. However, we are not in a position now to prescribe sharing rules for this scenario and do not find a basis in the record for initiating such a proceeding in this docket, including the question of fixed service operations in bands not designated for this service today.

Protection of GSO Networks

Ka-band EPFD Limits. We adopt the ITU EPFD limits in the 17.8–30 GHz frequency range, which will harmonize our rules with international regulations and provide greater certainty for NGSO FSS operators. While we recognize that these limits were not developed with the most advanced modern GSO networks in mind, ViaSat has not proposed any new EPFD limits, and it would not be advisable to remain without Ka-band EPFD limits in our rules pending such deliberations. Similarly, we decline to adopt Boeing's suggestion to incorporate an ITU Recommendation, which is not an international requirement, because this would be inconsistent with our desire to harmonize the treatment of NGSO FSS systems with global regulations. We will require NGSO FSS licensees to comply with existing aggregate EPFD limits as well, and may intervene if operators cannot agree among themselves how to ensure the aggregate limits are met.

In further keeping with international treatment, we decline to adopt our proposal to extend EPFD limits to the 19.3–19.4 GHz and 19.6–19.7 GHz bands. We ultimately believe that any benefit from extending EPFD limits to these relatively small, discrete band segments does not justify the complications of deviating from Article 22 of the ITU Radio Regulations.

Default GSO–NGSO Sharing. We believe that section 25.156(d)(5) is unnecessarily restrictive, and that an equivalent to the ITU provision No. 22.2, which applies internationally, will serve as a better default. Generally, both GSO networks and NGSO FSS systems can operate using the same frequencies if NGSO systems are required to protect GSO networks. If NGSO systems are not required to protect GSO networks, GSO networks may be precluded entirely, because as a general matter they have less flexibility to avoid causing harmful interference to NGSO systems or protecting themselves while operating in the same band. Accordingly, to allow both types of uses by default, we will require NGSO systems to protect GSO FSS and GSO BSS networks, similar to the ITU provision. However, the extent of the protection of GSO networks can be more or less restrictive depending on the specific EPFD limits NGSO FSS systems may have to meet within a given frequency band. We expect that EPFD limits will continue to be useful in facilitating sharing and will likely be developed in additional bands in the future. Once adopted, NGSO operators will be provided greater certainty with respect to their obligations to protect GSO networks.

Rule Consolidation and Streamlining

Several parties ask that we consider relaxing the EPFD demonstration requirements as applied to the Ka-band, and take account of the recently finalized ITU validation software. We agree that the current demonstration requirements applicable to the 10.7–14.5 GHz band may no longer be necessary. Since we are adopting the EPFD limits contained in Article 22 of the ITU Radio Regulations, and applicants must use the ITU-approved validation software to assess compliance with these limits, the Commission's staff review would duplicate that performed by the ITU Radiocommunication Bureau. Yet, the Commission has found that, due to staffing constraints and technical complexity, its review of EPFD demonstrations typically takes a few months. We do not believe that such review is warranted to reduce the likelihood that an incorrect submission is made to the ITU. Given the newly available ITU validation software and the separate analysis conducted by the ITU, we will simply require NGSO FSS applicants to certify that they will meet the international EPFD limits. After licensing, we will require NGSO FSS operators to successfully undergo ITU review of their EPFD demonstrations and to provide the Commission with the input data files used for public disclosure.

Additionally, because we are relying on ITU EPFD limits, we do not believe it is necessary to restate them in our rules. Rather, we will incorporate by reference the relevant portions of Article 22. Similarly, we are adopting ITU PFD limits on NGSO FSS space stations, which the ITU also analyzes. For the same reasons as our decisions regarding EPFD limits, we will incorporate ITU PFD limits by reference and allow applicants to certify as to their compliance. In the limited case of NGSO FSS operations in the 19.3–19.4 GHz and 19.6–19.7 GHz bands, where we are requiring licensees to comply with ITU PFD limits that apply in the adjacent 17.7–19.3 GHz band, we still believe that a certification will be sufficient even though the ITU will not perform a technical evaluation of compliance with our limits. The Commission already allows certifications of compliance with PFD and other space station power limits, and given the similarity of operations in the 17.7–19.3 GHz band, for which technical information is evaluated at the ITU, with operations in the 19.3–19.4 GHz and 19.6–19.7 GHz bands, we believe that a certification from the operator will provide sufficient assurance that the system will be capable of operating within our PFD limits in these bands.

In addition, we adopt our unopposed proposal to delete section 25.145(e), similar provisions in sections 25.142(d) and 25.143(d), and the cross-references

to section 25.142(d) in section 25.217, all of which have been superseded by the ORBIT Act, in order to remove redundancies from our rules.

Finally, we consolidate the ephemeris data requirement on NGSO FSS systems into 25.146, and delete paragraph (h) of this section, which states that NGSO FSS licensees will be awarded a blanket license for space stations and is redundant with section 25.114. As the deletion of section 25.146(h) will simply remove a redundant provision without affecting the rights or obligations of any licensee or applicant, we find, for good cause, that the notice and public procedure rulemaking requirements specified in the Administrative Procedure Act (APA) is unnecessary.

Spectrum Sharing Among NGSO FSS Systems

Default Sharing. We believe that coordination among NGSO FSS operators in the first instance offers the best opportunity for efficient spectrum sharing. Before resorting to a default mechanism, we will require authorized NGSO FSS operators to discuss their technical operations in good faith with an aim to accommodating both systems. If a question arises as to whether one operator is coordinating in good faith, the matter may be brought to the Commission and we may intervene to enforce the condition and aid the parties to find a solution. Such good faith coordination also offers the best means to mitigate potentially unequal burdens for smaller NGSO FSS systems or those in highly elliptical orbits. And while we encourage similar industry cooperation in the form of a ''clearinghouse'' or other organization, the current record is insufficient to mandate the creation of such an entity.

Should coordination remain ongoing at the time both systems are operating, or if good faith coordination otherwise proves unsuccessful, we will require band-splitting when the ΔT/T of an interfered link exceeds 6 percent. While the Commission once found this long-term interference criterion to be unsuited for NGSO FSS sharing, based on the current record we conclude that this approach is the best method for characterizing the situations in which there is potential for interference between NGSO FSS systems. Although we recognize that this will be a complex calculation, as noted in the record, using this threshold will provide both equal access to spectrum and a flexible mechanism that is specific to the particular interference situation and systems involved. Further, the single avoidance angle method previously adopted has now been shown to not address all of the varieties of new proposed systems. This is equally true if a fixed avoidance angle is coupled with a further interference criterion, such as a ΔT/T of 25 percent. Further, to provide regulatory certainty while operators pursue the development of their constellations, we will not consider this issue in a Further Notice without first gaining experience in its implementation. After monitoring the development of NGSO FSS systems, we may revisit our specific threshold for spectrum-splitting in light of the matured technical designs of those systems that have continued to progress.

In contrast to a ΔT/T of 6 percent threshold, Telesat's proposal to award priority to a single NGSO FSS operator according to the date of receipt of its ITU coordination request would give no certainty to other operators that they may use any portion of the spectrum absent that operator's consent. In other words, absent coordination, Telesat asks the Commission to pick a single ''winner''—Telesat, in many frequency bands—that would be given certainty of operations in wide swaths of spectrum without offering any certainty to a multitude of other proposals in the same bands. This regime could unduly chill investment in competing systems. If the first priority system is not ultimately deployed, it could delay the provision of NGSO FSS broadband by lower-priority systems fearful of a hypothetical sharing environment. And it gives the highest priority system weaker incentives to accommodate competing NGSO FSS systems. In contrast, our default sharing solution sets all applicants in a processing round on an equal basis. This equality will form the basis of the necessary coordination discussions. We expect more accommodation, more sharing, and ultimately, more competition, will result from treating NGSO FSS applicants equally than by a first-come, first-served regime in a potentially challenging sharing environment. In addition, Telesat's proposal would cause confusion because the ITU dates of receipt for any two U.S.-licensees would not have any international significance, since coordination between these two U.S. systems is a domestic matter and not subject to ITU rules. Accordingly, to set all NGSO FSS applicants and market access petitioners in the processing rounds on an equal footing and because no one angle is appropriate for all systems, we adopt a ΔT/T of 6 percent threshold to define the default sharing required among NGSO FSS systems.

Scope of Default Sharing Mechanism. Above, we chose a spectrum splitting sharing mechanism that is triggered when a ΔT/T threshold of 6 percent is exceeded. This approach is suited to varying NGSO FSS system designs. We also believe this threshold is appropriate for NGSO FSS systems in any of the currently envisioned frequency bands because it takes into account each specific system design in any band. Accordingly, we will apply this criterion by default to NGSO FSS systems in any frequency band. We do not see merit in considering band segmentation. In a worst case scenario, when the ΔT/T threshold of 6 percent threshold is exceeded 100 percent of the time, the result is the equivalent to band segmentation. Thus, our method of spectrum sharing allows for the possibility of co-frequency operation absent a coordination agreement, but is in no case less favorable to licensees than strict band segmentation would be.

SpaceX and SES/O3b ask that we clarify the geographic scope of our NGSO FSS sharing method as it relates to non-U.S.-licensed satellite systems granted U.S. market access. While SpaceX argues that it should govern such operations worldwide, a grant of market access typically considers radiofrequency operations only within the United States. Sharing between systems of different administrations internationally is subject to coordination under Article 9 of the ITU Radio Regulations. We believe this international regime is the appropriate forum to consider NGSO FSS radiofrequency operations that fall outside the scope of a grant of U.S. market access. Because ITU coordination procedures do not apply between two U.S. systems, our spectrum splitting sharing mechanism triggered when a ΔT/T threshold of 6 percent is exceeded will govern such operations both within and outside the United States.

Earth Station Power Limits. Above, we established a mechanism to promote sharing among the various NGSO FSS system designs, without mandating any particular system architecture. This sharing mechanism is sufficient to define the sharing requirements among NGSO FSS systems. While prescribing limits on off-axis earth station emissions could promote sharing further, it may also preclude the use of smaller, less expensive earth stations for consumer applications. In addition to the potential need to establish off-axis limits, SpaceX has raised the possibility of introducing limits on on-axis earth station emissions. Such on-axis limits would reduce the differences between earth station emissions to satellites at orbits with significant different heights. We

recognize the potential utility of SpaceX's proposal; however, given the variety of NGSO FSS system proposals and their potential to offer broadband services directly to consumers, we believe it is premature to adopt any additional technical limitations to promote sharing among NGSO FSS systems.

Ephemeris Data. We believe that the current website requirement may be unduly rigid, and that other means to share ephemeris data could be equally or more efficient and useful. Accordingly, we will simply require NGSO FSS operators to ensure that ephemeris data regarding their constellation is available to all authorized, co-frequency satellite operators in a manner that is mutually acceptable to the parties. The requirement will apply in all bands in which we require sharing among NGSO FSS systems under the default method adopted herein.

Applications after a Processing Round. The purpose of the recent processing rounds was to establish a sharing environment among NGSO systems, to provide a measure of certainty in lieu of adopting an open-ended requirement to accommodate all future applicants. At the same time, it is uncertain how many of the pending system applications will proceed to full deployment. While we will initially limit sharing under the ΔT/T of 6 percent threshold to qualified applicants in a processing round, treatment of later applicants to approved systems must necessarily be case-by-case based on the situation at the time, and considering both the need to protect existing expectations and investments and provide for additional entry as well as any comments filed by incumbent operators and reasoning presented by the new applicant.

Milestones

NGSO Milestones. Our chosen milestone approach seeks to accomplish two goals. First, it should be simple, clear, and easy to administer. Second, it should discourage applicants from seeking authorizations for oversized, unrealistic constellations, even if those applicants eventually provide substantial service to the public. Such unused authorizations for spectrum-orbit resources can create unnecessary coordination burdens and uncertainty for other operators. These may deter an operator that is able to proceed with its authorized satellite system. Proposals that allow applicants to set their own milestone objectives, that set more complex milestones, or that re-engage the Commission in construction determinations would not achieve our dual milestone goals.

Instead, given the desire for additional flexibility evident in the record, we conclude that requiring launch and operation of 50 percent of the authorized satellite system within six years of grant strikes an appropriate balance between providing flexibility for the licensee and a measure of certainty for other operators. If a licensee fails to meet this milestone, its authorization will be reduced to the number of satellites in use on the milestone date, and the bond will be forfeit. Operators that successfully complete the first milestone will have an additional three years to deploy the remainder of their constellation, free of bond obligations. After the milestone period, we will require licensees to maintain 50 percent of their authorized constellation in orbit at all times, or have their constellation size similarly reduced to conform to their diminished operations. Reducing the first milestone requirement from 75% deployment, as proposed in the Notice, to 50% deployment will not necessarily affect the coverage of the authorized system. A constellation may be able to achieve its full coverage despite having only 50% of its satellites deployed. Further, licensees will be required to complete their authorized constellations within 9 years. Finally, because operators of smaller satellite systems may also benefit from deployment flexibility, we will apply these milestones and requirements equally to all NGSO systems, regardless of size.

We decline to extend the bond period to nine years. Under our ''escalating'' bond requirement, liability increases from $1,000,000 to $5,000,000 progressively over the six-year bond period. Extending this period to nine years, without appropriately increasing the maximum liability, would weaken the incentive of the bond and is unsupported by the record. In addition, because it could vitiate our percentage-based milestone requirement, we will not allow a modification of the authorized number of satellites to reduce a licensee's milestone obligation after grant. Further, a licensee may request to modify its authorization at any time to deploy additional satellites. These applications will be considered on a case-by-case basis as ''NGSO-like'' applications filed after a processing round. Given this additional opportunity for modification and public comment when plans have matured, we decline to extend the milestone period beyond 9 years, or to forgo a fixed completion milestone altogether, as creating undue uncertainty for other operators.

Replacements. The Commission also proposed to clarify in section 25.164 that both GSO and NGSO replacement space stations, which must be scheduled for launch before the retirement of the space stations being replaced, are not subject to the separate milestone requirements in that section. All commenters on this issue supported the Commission's proposal, which we adopt to clarify this treatment.

International Coverage

Sections 25.145 and 24.146. Sections 25.145(c)(1) and 25.146(i)(2) require certain NGSO FSS systems to be capable of providing service anywhere between 70° North Latitude and 55° South Latitude for at least 18 hours of every day. The Notice proposed to delete these international coverage requirements, noting they prohibit the use of certain non-geostationary orbits and system designs. Every commenter on the issue agrees that removing this requirement would afford operators greater design flexibility. We agree with this assessment and therefore delete the international coverage requirements in these sections.

Section 25.217. In addition, section 25.217(b)(1) contains an international coverage requirement mirroring the 18-hour, 70° North Latitude/55° South Latitude rules described above, which applies to NGSO systems ''before any frequency-band-specific service rules have been adopted for [a particular] frequency band.'' For NGSO FSS systems operating in various frequency bands, such as those in the 37–52 GHz range (for which the Commission has not adopted frequency-band-specific rules), this means that the same type of coverage constraints that we are lifting for other NGSO FSS systems would continue to apply. This type of disparate treatment is unjustified because many of the same services, including broadband internet services, can be provided to consumers in a variety of frequency bands. Moreover, providing the same degree of flexibility for NGSO systems covered by section 25.217(b) is consistent with our goal of providing additional flexibility with respect to geographic coverage rules for all ''operators of NGSO FSS systems,'' as proposed in the Notice. This makes particular sense for systems that operate in multiple bands—some covered by section 25.217(b) and some not—which would otherwise be subject to two different coverage regimes depending on which band the system was accessing. To afford the same flexibility to all NGSO FSS systems regardless of the

band, we therefore remove this section 25.217(b) default international coverage requirement.

Pending Applications

The motivating purpose for this rulemaking was to update our rules and policies to prepare for a new generation of NGSO FSS satellite systems. Many of these applications are now pending before the Commission. Accordingly, as of their effective date, we will apply the rules and procedures we adopt in this Report and Order to pending space station applications and petitions for U.S. market access. In addition, we will allow current licensees and market access recipients to submit a simple letter request to modify particular conditions in their grants consistent with the rule changes adopted in this Order. The Commission may apply new procedures to pending applications if doing so does not impair the rights an applicant possessed when it filed its application, increase an applicant's liability for past conduct, or impose new duties on applicants with respect to transactions already completed. Applicants do not gain any vested right merely by filing an application, and the simple act of filing an application is not considered a ''transaction already completed'' for purposes of this analysis. Accordingly, applying our new rules and procedures to pending space station applications will not impair the rights any applicant had at the time it filed its application. Nor will doing so increase an applicant's liability for past conduct.

We disagree with ViaSat's argument that we should dismiss pending applications in the current processing rounds, or indefinitely withhold action until additional EPFD deliberations are completed. Doing so would largely negate the purpose of this rulemaking and delay the authorization of pending systems. Rather, we note that ViaSat has reviewed the pending proposals and believes it can operate with each of the technical designs proposed.

Paperwork Reduction Act

This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, other Federal agencies, and the general public will be invited to comment on the modified information collection requirements contained in this document. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

In this document, we have assessed the effects of reducing the application burdens of NGSO FSS satellite applicants, and find that doing so will serve the public interest and is unlikely to directly affect businesses with fewer than 25 employees.

Congressional Review Act

The Commission will send a copy of this 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).

Final Regulatory Flexibility Analysis

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

A. Need for, and Objectives of, the Rules

The Order adopts several proposals relating to the Commission's rules and policies for satellite services, especially those concerning non-geostationary-satellite (NGSO), fixed-satellite service (FSS) systems. Adoption of these changes will, among other things, provide for more flexible use of the 17.8–20.2 GHz bands for FSS; promote shared use of spectrum among NGSO FSS satellite systems; and remove unnecessary design restrictions on NGSO FSS systems.

The Order adopts several changes to 47 CFR parts 2 and 25. Principally, it:

(1) Allocates additional spectrum for use by FSS systems on a secondary basis in the 17.8–18.3 GHz band, subject to power flux-density limits designed to protect primary terrestrial services.

(2) Allows additional operation of NGSO FSS systems in segments of the 17.8–20.2 GHz band within limits protective of FSS satellite systems in the geostationary-satellite orbit (GSO).

(3) Allows GSO FSS operation in the 18.8–19.3 GHz band on an unprotected, non-interference basis with regard to NGSO FSS systems, to provide additional operational flexibility.

(4) Amends the Commission's satellite milestone policies and geographic coverage rules to provide additional regulatory flexibility to operators of NGSO FSS systems.

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

There were no comments filed that specifically addressed the IRFA.

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

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

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

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

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

telecommunications providers are small entities.

The rule changes adopted in this Order will affect space station applicants and licensees. Generally, space stations cost hundreds of millions of dollars to construct, launch, and operate. Consequently, we do not anticipate that any space station operators are small entities that would be affected by our actions.

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

The Order adopts several rule changes that would affect compliance requirements for space station operators. As noted above, these parties rarely qualify as small entities.

For example, we allow additional uses of certain frequencies within the 17.8–20.2 GHz band, subject to compliance with power limits designed to protect other users of the bands. We also modify rules for satellite system implementation to provide additional flexibility to operators. And we eliminate a geographic service requirement that restricts the design possibilities of certain NGSO FSS satellite systems. In total, the actions in this Order are designed to achieve the Commission's mandate to regulate in the public interest while imposing the lowest necessary burden on all affected parties, including small entities.

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

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

In this Report and Order, the Commission relaxes or removes requirements on NGSO FSS operators, including changing the 100 percent deployment milestone after six years to a 50 percent milestone at that time, and allowing three additional years to launch the remaining constellation; removing geographic coverage requirements; and allowing applicants to certify, rather than demonstrate, that they will comply with equivalent power-flux density limits. In addition, the Order provides greater flexibility to both geostationary and non-geostationary satellite operators to provide service in additional portions of the 17.8–20.2 GHz frequency band. Overall, we believe the actions in this document will reduce burdens on the affected licensees, including any small entities.

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

None.

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.**

Incorporation by Reference

This final rule incorporates by reference four elements of the ITU Radio Regulations, Edition of 2016, into part 25 for specific purposes:

(1) ITU Radio Regulations, Volume 1: Articles, Article 21, ''Terrestrial and space services sharing frequency bands above 1 GHz,'' Section V, ''Limits of power flux-density from space stations,'' Edition of 2016.

Article 21 of the ITU Radio Regulations contains power limits on satellite transmissions to protect terrestrial and other services. The Commission requires under § 25.146(a) that non-geostationary, fixed-satellite service (NGSO FSS) satellite operators certify compliance with these limits. Applicants and licensees affected by § 25.146(a) should become familiar with the incorporated materials.

(2) ITU Radio Regulations, Volume 1: Articles, Article 22, ''Space services,'' Section II, ''Control of interference to geostationary-satellite systems,'' Edition of 2016.

Article 22 of the ITU Radio Regulations contains power limits on NGSO FSS satellite systems to protect geostationary satellite networks from unacceptable interference. The Commission requires under § 25.146(a) that NGSO FSS operators certify compliance with these limits. In addition, compliance with the Article 22 limits satisfies the requirement in § 25.289 that an NGSO FSS satellite operator not cause unacceptable interference to geostationary satellite networks. Applicants and licensees affected by § 25.146(a) or 25.289 should become familiar with the incorporated materials.

(3) ITU Radio Regulations, Volume 3: Resolutions and Recommendations, Resolution 76 (Rev.WRC–15), ''Protection of geostationary fixed-satellite service and geostationary broadcasting-satellite service networks from the maximum aggregate equivalent power flux-density produced by multiple non-geostationary fixed-satellite service systems in frequency bands where equivalent power flux-density limits have been adopted,'' Edition of 2016.

Resolution 76 of the ITU Radio Regulations contains aggregate power limits on NGSO FSS satellite transmissions to protect geostationary satellite networks, related to the per-system power limits in Article 22. The Commission requires under § 25.146(a) that NGSO FSS satellite operators also certify compliance with these aggregate limits. Applicants and licensees affected by § 25.146(a) should become familiar with the incorporated materials.

(4) ITU Radio Regulations, Volume 3: Resolutions and Recommendations, Resolution 85 (WRC–03), ''Application of Article 22 of the Radio Regulations to the protection of geostationary fixed-satellite service and broadcasting-satellite service networks from non-geostationary fixed-satellite service systems,'' Edition of 2016.

Resolution 85 of the ITU Radio Regulations concerns the assessment of compliance with the power limits on NGSO FSS systems in Article 22. The Commission requires under 25.146(c) that NGSO FSS operators receive a favourable or qualified favourable finding under this Resolution. Applicants and licensees affected by § 25.146(a) should become familiar with the incorporated materials.

Materials (1) through (4) above are available for free download at *http://www.itu.int/pub/R-REG-RR-2016.* In addition, copies of all of the materials are available for purchase from the ITU through the contact information provided in section 25.108, and are available for public inspection at the Commission address noted in the rule as well.

Ordering Clauses

It is ordered, pursuant to sections 4(i), 7(a), 10, 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 160, 303, 308(b), 316, that this Report and Order IS ADOPTED, the policies, rules, and requirements discussed herein ARE ADOPTED, Parts 2 and 25 of the

Commission's rules ARE AMENDED as set forth in Appendix A, and this Further Notice of Proposed Rulemaking *is adopted*.

It is further ordered that this Report and Order *shall* be effective January 17, 2018, except that those amendments which 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.

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

It is ordered, pursuant to 47 U.S.C. 154(i), 157(a), 160, 161, 303(c), 303(f), 303(g), 303(r), 308(b), that this Report and Order is adopted, the policies, rules, and requirements discussed herein are adopted, and part 25 of the Commission's rules is amended as set forth below.

It is further ordered that the International Bureau is delegated authority to issue Public Notices consistent with this Report and Order.

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

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Earth stations, Radio, Satellites.

47 CFR Part 25

Administrative practice and procedure, Earth stations, Incorporation by reference, Satellites.

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 CFR parts 2 and 25 as follows:

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

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

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

■ 2. In § 2.106, the Table of Frequency Allocations is amended as follows:

■ a. Pages 49, 52, and 55 are revised.

■ b. In the list of non-Federal Government (NG) Footnotes, footnotes NG57, NG62, and NG535A are added; and footnotes NG164, NG165, and NG166 are revised.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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Table of Frequency Allocations			12.2-15.4 GHz (SHF)		Page 49
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
(See previous page)	12.2-12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492 5.487A 5.488 5.490	12.2-12.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile BROADCASTING 5.484A 5.487	12.2-12.75	12.2-12.7 FIXED BROADCASTING-SATELLITE 5.487A 5.488 5.490	Satellite Communications (25) Fixed Microwave (101)
12.5-12.75 FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.494 5.495 5.496	12.7-12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	12.5-12.75 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE except aeronautical mobile BROADCASTING-SATELLITE 5.493		12.7-12.75 FIXED NG118 FIXED-SATELLITE (Earth-to-space) MOBILE	TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
12.75-13.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.441 MOBILE Space research (deep space) (space-to-Earth)			12.75-13.25 US251	12.75-13.25 FIXED NG118 FIXED-SATELLITE (Earth-to-space) 5.441 NG52 NG57 MOBILE US251 NG53	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A 5.499			13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A	13.25-13.4 AERONAUTICAL RADIONAVIGATION 5.497 Earth exploration-satellite (active) Space research (active)	Aviation (87)
13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B			13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.501B	13.4-13.75 Earth exploration-satellite (active) Radiolocation Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Earth exploration-satellite Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503			13.75-14 RADIOLOCATION G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Standard frequency and time signal-satellite (Earth-to-space) Space research Radiolocation US356 US357	Satellite Communications (25) Private Land Mobile (90)
14-14.25 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.504C 5.506A Space research			14-14.2 Space research US133	14-14.2 FIXED-SATELLITE (Earth-to-space) NG55 Mobile-satellite (Earth-to-space) Space research US133	Satellite Communications (25)

	17.8-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE 5.519		17.8-18.3 FIXED-SATELLITE (space-to-Earth) US334 G117 US519	17.8-18.3 FIXED Fixed-satellite (space-to-Earth) US334 US519	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
18.1-18.4 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B (Earth-to-space) 5.520 MOBILE 5.519 5.521			18.3-18.6 FIXED-SATELLITE (space-to-Earth) US334 G117 US139	18.3-18.6 FIXED-SATELLITE (space-to-Earth) US139 US334	Satellite Communications (25)
18.4-18.6 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE					
18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A 5.522C	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.522B MOBILE except aeronautical mobile SPACE RESEARCH (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 US334 G117 SPACE RESEARCH (passive) US139 US254	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 NG164 SPACE RESEARCH (passive) US139 US254 US334	
18.8-19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.523A MOBILE			18.8-20.2 FIXED-SATELLITE (space-to-Earth) US334 G117	18.8-19.3 FIXED-SATELLITE (space-to-Earth) NG165 US139 US334	
19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 5.523B 5.523C 5.523D 5.523E MOBILE				19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) NG166 US334	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B Mobile-satellite (space-to-Earth) 5.524	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B Mobile-satellite (space-to-Earth) 5.524		19.7-20.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 5.529 US334	Satellite Communications (25)
20.1-20.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528			US139		
20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) 5.524			20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) G117	20.2-21.2 Standard frequency and time signal-satellite (space-to-Earth)	

Table of Frequency Allocations			27-34.7 GHz (SHF/EHF)			Page 55
International Table			United States Table			FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table		
27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 FIXED FIXED-SATELLITE (Earth-to-space) INTER-SATELLITE 5.536 5.537 MOBILE		27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 Inter-satellite 5.536		RF Devices (15)
27.5-28.5 FIXED 5.537A FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE 5.538 5.540			27.5-30	27.5-28.35 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE		RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30) Fixed Microwave (101)
28.5-29.1 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.523A 5.539 MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540				28.35-29.1 FIXED-SATELLITE (Earth-to-space) NG165 NG62		Satellite Communications (25)
29.1-29.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.516B 5.523C 5.523E 5.535A 5.539 5.541A MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540				29.1-29.25 FIXED FIXED-SATELLITE (Earth-to-space) NG166 MOBILE		RF Devices (15) Satellite Communications (25) Fixed Microwave (101)
				29.25-29.5 FIXED-SATELLITE (Earth-to-space) NG535A NG62		Satellite Communications (25)
29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.525 5.526 5.527 5.529 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542		29.5-30 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.529 5.543		
29.9-30 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.543 5.525 5.526 5.527 5.538 5.540 5.542						
30-31 FIXED-SATELLITE (Earth-to-space) 5.338A MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) 5.542			30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) G117	30-31 Standard frequency and time signal-satellite (space-to-Earth)		

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* * * * *

NON–FEDERAL GOVERNMENT (NG) FOOTNOTES

* * * * *

NG57 The use of the band 12.75–13.25 GHz by non-geostationary-satellite systems in the fixed-satellite service is limited to communications with individually licensed earth stations.

* * * * *

NG62 In the bands 28.5–29.1 GHz and 29.25–29.5 GHz, stations in the fixed-satellite service shall not cause harmful interference to, or claim protection from, stations in the fixed service operating under the following call signs: KEB35, KGB72, KGC79, KIL20, KME49, KQG58, KQH74, KSA96, KSE73, KVH83, KYJ33, KZS88, WAX78, WLT380, WMK817, WML443, WMP367, and WSL69.

* * * * *

NG164 The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary-satellite networks.

NG165 In the bands 18.8–19.3 GHz and 28.6–29.1 GHz, geostationary-satellite networks in the fixed-satellite service shall not cause harmful interference to, or claim protection from, non-geostationary-satellite systems in the fixed-satellite service.

NG166 The use of the bands 19.4–19.6 GHz and 29.1–29.25 GHz by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service.

* * * * *

NG535A The use of the band 29.25–29.5 GHz by the fixed-satellite service is limited to geostationary-satellite networks and to feeder links for non-geostationary-satellite systems in the mobile-satellite service.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

■ 3. The authority citation for part 25 is revised to read as follows:

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

■ 4. In § 25.108:

■ a. Revise paragraph (a);

■ b. Remove paragraph (c)(6) and redesignate paragraphs (c)(2) through (5) as paragraphs (c)(4) through (7);

■ c. Add new paragraphs (c)(2) and (3); and

■ d. Add paragraphs (c)(8) and (9).

The revisions and additions read as follows:

§ 25.108 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Federal Communications Commission, 445 12th Street SW, Reference Information Center, Room CY–A257, Washington, DC 20554, 202–418–0270, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *www.archives.gov/federal-register/ccfr/ibr-locations.html.*

* * * * *

(c) * * *

(2) ITU Radio Regulations, Volume 1: Articles, Article 21, ''Terrestrial and space services sharing frequency bands above 1 GHz,'' Section V, ''Limits of power flux-density from space stations,'' Edition of 2016, copyright 2016, *http://www.itu.int/pub/R-REG-RR-2016.* Incorporation by reference approved for § 25.146(a).

(3) ITU Radio Regulations, Volume 1: Articles, Article 22, ''Space services,'' Section II, ''Control of interference to geostationary-satellite systems,'' Edition of 2016, copyright 2016, *http://www.itu.int/pub/R-REG-RR-2016.* Incorporation by reference approved for §§ 25.146(a), 25.289.

* * * * *

(8) ITU Radio Regulations, Volume 3: Resolutions and Recommendations, Resolution 76 (Rev.WRC-15), ''Protection of geostationary fixed-satellite service and geostationary broadcasting-satellite service networks from the maximum aggregate equivalent power flux-density produced by multiple non-geostationary fixed-satellite service systems in frequency bands where equivalent power flux-density limits have been adopted,'' Edition of 2016, copyright 2016, *http://www.itu.int/pub/R-REG-RR-2016.* Incorporation by reference approved for § 25.146(a).

(9) ITU Radio Regulations, Volume 3: Resolutions and Recommendations, Resolution 85 (WRC–03), ''Application of Article 22 of the Radio Regulations to the protection of geostationary fixed-satellite service and broadcasting-satellite service networks from non-geostationary fixed-satellite service systems,'' Edition of 2016, copyright 2016, *http://www.itu.int/pub/R-REG-RR-2016.* Incorporation by reference approved for § 25.146(c).

■ 5. In § 25.114, revise paragraphs (c)(8) and (d)(12) to read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(8) Calculated maximum power flux-density levels within each coverage area and energy dispersal bandwidths, if any, needed for compliance with § 25.208, for the angles of arrival specified in the applicable paragraph(s) of § 25.208, except for an NGSO FSS applicant certifying compliance with PFD limits under § 25.146(a)(1);

* * * * *

(d) * * *

(12) The information required by § 25.146, if the application is for an NGSO FSS system authorization within the 10.7–30 GHz band.

* * * * *

■ 6. In § 25.115, revise paragraphs (c)(1) introductory text, (e), and (f) to read as follows:

§ 25.115 Applications for earth station authorizations.

* * * * *

(c)(1) *GSO FSS earth stations in 10.7–12.2 GHz or 14–14.5 GHz.* A blanket license application for operation in the 10.7–12.2 GHz or 14–14.5 GHz bands may be filed on FCC Form 312 or Form 312EZ, with a Schedule B for each large (5 meters or larger) hub station antenna and each representative type of small antenna (less than 5 meters) operating within the network; however, blanket licensing in the 10.7–11.7 GHz band is on an unprotected basis with respect to the fixed service.

* * * * *

(e) *GSO FSS earth stations in 17.8–30 GHz.* (1) An application for a GSO FSS earth station license in the 17.8–19.4 GHz, 19.6–20.2 GHz, 27.5–29.1 GHz, or 29.25–30 GHz bands not filed on FCC Form 312EZ pursuant to paragraph (a)(2) of this section must be filed on FCC Form 312, Main Form and Schedule B, and must include any information required by paragraph (g) or (j) of this section or by § 25.130.

(2) An applicant may request authority for operation of GSO FSS earth stations in the 17.8–19.4 GHz, 19.6–20.2 GHz, 28.35–29.1 GHz, and 29.25–30 GHz bands without specifying the location of user terminals but must specify the geographic area(s) in which they will operate and the location of hub and/or gateway stations; however, blanket licensing in the 17.8–18.3 GHz, 19.3–19.4 GHz, and 19.6–19.7 GHz bands is on an unprotected basis with respect to the fixed service.

(f) *NGSO FSS earth stations in 10.7–29.1 GHz.* (1) An application for an NGSO FSS earth station license in the 10.7–29.1 GHz band must include the certification described in § 25.146(a)(2).

(2) Individual or blanket license applications may be filed for operation in the 10.7–12.7 GHz, 14–14.5 GHz, 17.8–18.6 GHz, 18.8–19.4 GHz, 19.6–20.2 GHz, or 28.35–29.1 GHz bands; however, blanket licensing in the 10.7–11.7 GHz, 17.8–18.3 GHz, 19.3–19.4 GHz, and 19.6–19.7 GHz bands is on an unprotected basis with respect to the fixed service.

(3) Individual license applications only may be filed for operation in the 12.75–13.15 GHz, 13.2125–13.25 GHz, 13.75–14 GHz, or 27.5–28.35 GHz bands.

* * * * *

§ 25.142 [Amended]

■ 7. In § 25.142, remove paragraph (d).

§ 25.143 [Amended]

■ 8. In § 25.143, remove paragraph (d).

§ 25.145 [Removed]

■ 9. Remove § 25.145.

■ 10. Revise § 25.146 to read as follows:

§ 25.146 Licensing and operating provisions for NGSO FSS space stations.

(a) An NGSO FSS applicant proposing to operate in the 10.7–30 GHz frequency range must certify that it will comply with:

(1) Any applicable power flux-density levels in Article 21, Section V, Table 21–4 of the ITU Radio Regulations (incorporated by reference, § 25.108), except that in the 19.3–19.4 GHz and 19.6–19.7 GHz bands applicants must certify that they will comply with the ITU PFD limits governing NGSO FSS systems in the 17.7–19.3 GHz band; and

(2) Any applicable equivalent power flux-density levels in Article 22, Section II, and Resolution 76 of the ITU Radio Regulations (both incorporated by reference, § 25.108).

(b) In addition, an NGSO FSS applicant proposing to operate in the 10.7–12.7 GHz, 12.75–13.25 GHz, 13.75–14.5 GHz, 18.8–19.3 GHz, or 28.6–29.1 GHz bands must provide a demonstration that the proposed system is capable of providing FSS on a continuous basis throughout the fifty states, Puerto Rico, and the U.S. Virgin Islands.

(c) Prior to the initiation of service, an NGSO FSS operator licensed or holding a market access authorization to operate in the 10.7–30 GHz frequency range must receive a ''favorable'' or ''qualified favorable'' finding by the ITU Radiocommunication Bureau, in accordance with Resolution 85 of the ITU Radio Regulations (incorporated by reference, § 25.108), regarding its compliance with applicable ITU EPFD limits. In addition, a market access holder in these bands must:

(1) Communicate the ITU finding to the Commission; and

(2) Submit the input data files used for the ITU validation software.

(d) Coordination will be required between NGSO FSS systems and GSO FSS earth stations in the 10.7–12.75 GHz band when:

(1) The GSO satellite network has receive earth stations with earth station antenna maximum isotropic gain greater than or equal to 64 dBi; G/T of 44 dB/K or higher; and emission bandwidth of 250 MHz; and

(2)The $EPFD_{down}$ radiated by the NGSO satellite system into the GSO specific receive earth station, either within the U.S. for domestic service or any points outside the U.S. for international service, as calculated using the ITU software for examining compliance with EPFD limits exceeds—174.5 dB(W/(m²/40kHz)) for any percentage of time for NGSO systems with all satellites only operating at or below 2500 km altitude, or—202 dB(W/(m²/40kHz)) for any percentage of time for NGSO systems with any satellites operating above 2500 km altitude.

(e) An NGSO FSS licensee or market access recipient must ensure that ephemeris data for its constellation is available to all operators of authorized, in-orbit, co-frequency satellite systems in a manner that is mutually acceptable.

■ 11. In § 25.151:

■ a. Remove ''and'' from the end of paragraph (b)(10);

■ b. Remove the period at the end of paragraph (b)(11) and add ''; and'' in its place; and

■ c Add paragraph (a)(12) to read as follows:

§ 25.151 Public notice.

(a) * * *

(12) The receipt of EPFD input data files from an NGSO FSS licensee or market access recipient, submitted pursuant to § 25.111(b) or 25.146(c)(2).

* * * * *

§ 25.156 [Amended]

■ 12. In § 25.156, remove and reserve paragraph (d)(5).

■ 13. In § 25.157, revise paragraph (b) to read as follows:

§ 25.157 Consideration of applications for NGSO-like satellite operation.

* * * * *

(b)(1) The procedures in this section do not apply to an application for authority to operate a replacement space station(s) that meets the relevant criteria in § 25.165(e)(1) and (2) and that will be launched before the space station(s) to be replaced is retired from service or within a reasonable time after loss of a space station during launch or due to premature failure in orbit.

(2) Paragraphs (e), (f), and (g) of this section do not apply to an NGSO FSS application granted with a condition to share spectrum pursuant to § 25.261.

* * * * *

■ 14. In § 25.161, revise paragraph (a) and add paragraph (d) to read as follows:

§ 25.161 Automatic termination of station authorization.

* * * * *

(a)(1) The failure to meet an applicable milestone specified in § 25.164(a) or (b), if no authorized space station is functional in orbit;

(2) The failure to meet an applicable milestone specified in § 25.164(b)(1) or (2), if at least one authorized space station is functional in an authorized orbit, which failure will result in the termination of authority for the space stations not in orbit as of the milestone date, but allow for technically identical replacements; or

(3) The failure to meet any other milestone or construction requirement imposed as a condition of authorization. In the case of a space station authorization when at least one authorized space station is functional in orbit, however, such termination will be with respect to only the authorization for any space stations not in orbit as of the milestone date.

* * * * *

(d) The failure to maintain 50 percent of the maximum number of NGSO space stations authorized for service following the 9-year milestone period as functional space stations in authorized orbits, which failure will result in the termination of authority for the space stations not in orbit as of the date of noncompliance, but allow for technically identical replacements.

■ 15. In § 25.164, revise paragraphs (a), (b), and (g) to read as follows:

§ 25.164 Milestones.

(a) The recipient of an initial license for a GSO space station, other than a DBS space station, SDARS space station, or replacement space station as defined in § 25.165(e), must launch the space station, position it in its assigned orbital location, and operate it in accordance with the station authorization no later than 5 years after the grant of the license, unless a different schedule is

established by Title 47, Chapter I, or the Commission.

(b)(1) The recipient of an initial authorization for an NGSO satellite system, other than an SDARS system, must launch 50 percent of the maximum number of space stations authorized for service, place them in their assigned orbits, and operate them in accordance with the station authorization no later than 6 years after the grant of the authorization, unless a different schedule is established by Title 47, Chapter I. This paragraph does not apply to replacement NGSO space stations as defined in § 25.165(e).

(2) A licensee that satisfies the requirement in paragraph (b)(1) of this section must launch the remaining space stations necessary to complete its authorized service constellation, place them in their assigned orbits, and operate each of them in accordance with the authorization no later than nine years after the grant of the authorization.

* * * * *

(g) Licensees of satellite systems that include both NGSO satellites and GSO satellites must meet the requirement in paragraph (a) of this section with respect to the GSO satellite(s) and the applicable requirements in paragraph (b) of this section with respect to the NGSO satellites.

* * * * *

■ 16. In § 25.165, revise paragraph (c) and add paragraph (d) to read as follows:

§ 25.165 Surety bonds.

* * * * *

(c) A licensee will be considered to be in default with respect to a bond filed pursuant to paragraph (a) of this section if it surrenders the license before meeting an applicable milestone requirement in § 25.164(a) or (b)(1) or if it fails to satisfy any such milestone.

(d) A licensee will be relieved of its bond obligation under paragraph (a) of this section upon a Commission finding that the licensee has satisfied the applicable milestone requirement(s) in § 25.164(a) and (b)(1) for the authorization.

* * * * *

■ 17. In § 25.202, revise paragraph (a)(1) to read as follows:

§ 25.202 Frequencies, frequency tolerance, and emission limits.

(a)(1) In addition to the frequency-use restrictions set forth in § 2.106 of this chapter, the following restrictions apply:

(i) In the 27.5–28.35 GHz band, the FSS (Earth-to-space) is secondary to the Upper Microwave Flexible Use Service authorized pursuant to part 30 of this chapter, except for FSS operations associated with earth stations authorized pursuant to § 25.136.

(ii) Use of the 37.5–40 GHz band by the FSS (space-to-Earth) is limited to individually licensed earth stations. Earth stations in this band must not be ubiquitously deployed and must not be used to serve individual consumers.

(iii) The U.S. non-Federal Table of Frequency Allocations, in § 2.106 of this chapter, is applicable between Commission space station licensees relying on a U.S. ITU filing and transmitting to or receiving from anywhere on Earth, including airborne earth stations, in the 17.7–20.2 GHz or 27.5–30 GHz bands.

* * * * *

■ 18. In § 25.208:

■ a. Revise the section heading and the introductory text to paragraph (c), and

■ b. Remove and reserve paragraphs (e) and (g) through (m).

The revisions read as follows:

§ 25.208 Power flux-density limits.

* * * * *

(c) For a GSO space station in the 17.7–19.7 GHz, 22.55–23.55 GHz, or 24.45–24.75 GHz bands, or for an NGSO space station in the 22.55–23.55 GHz or 24.45–24.75 GHz bands, the PFD at the Earth's surface produced by emissions for all conditions and for all methods of modulation must not exceed the following values:

* * * * *

■ 19. In § 25.217, revise paragraphs (b)(1) and (c)(1) to read as follows:

§ 25.217 Default service rules.

* * * * *

(b)(1) For all NGSO-like satellite licenses for which the application was filed pursuant to the procedures set forth in § 25.157 after August 27, 2003, authorizing operations in a frequency band for which the Commission has not adopted frequency band-specific service rules at the time the license is granted, the licensee will be required to comply with the following technical requirements, notwithstanding the frequency bands specified in these rule provisions: §§ 25.143(b)(2)(ii) (except NGSO FSS systems) and (iii), 25.204(e), and 25.210(f) and (i).

* * * * *

(c)(1) For all GSO-like satellite licenses for which the application was filed pursuant to the procedures set forth in § 25.158 after August 27, 2003, authorizing operations in a frequency band for which the Commission has not adopted frequency band-specific service rules at the time the license is granted, the licensee will be required to comply with the following technical requirements, notwithstanding the frequency bands specified in these rule provisions: §§ 25.143(b)(2)(iv), 25.204(e), and 25.210(f), (i), and (j).

* * * * *

■ 20. Revise § 25.261 to read as follows:

§ 25.261 Sharing among NGSO FSS space stations.

(a) *Scope.* This section applies to NGSO FSS operation with earth stations with directional antennas anywhere in the world under a Commission license, or in the United States under a grant of U.S. market access.

(b) *Coordination.* NGSO FSS operators must coordinate in good faith the use of commonly authorized frequencies.

(c) *Default procedure.* Absent coordination between two or more satellite systems, whenever the increase in system noise temperature of an earth station receiver, or a space station receiver for a satellite with on-board processing, of either system, $\Delta T/T$, exceeds 6 percent due to interference from emissions originating in the other system in a commonly authorized frequency band, such frequency band will be divided among the affected satellite networks in accordance with the following procedure:

(1) Each of n (number of) satellite networks involved must select 1/n of the assigned spectrum available in each of these frequency bands. The selection order for each satellite network will be determined by the date that the first space station in each satellite system is launched and capable of operating in the frequency band under consideration;

(2) The affected station(s) of the respective satellite systems may operate in only the selected (1/n) spectrum associated with its satellite system while the $\Delta T/T$ of 6 percent threshold is exceeded;

(3) All affected station(s) may resume operations throughout the assigned frequency bands once the threshold is no longer exceeded.

§ 25.271 [Amended]

■ 21. In § 25.271, remove and reserve paragraph (e).

■ 22. Add § 25.289 to subpart D to read as follows:

§ 25.289 Protection of GSO networks by NGSO systems.

Unless otherwise provided in this chapter, an NGSO system licensee must not cause unacceptable interference to, or claim protection from, a GSO FSS or GSO BSS network. An NGSO FSS licensee operating in compliance with the applicable equivalent power flux-

density limits in Article 22, Section II of the ITU Radio Regulations (incorporated by reference, § 25.108) will be considered as having fulfilled this obligation with respect to any GSO network.

[FR Doc. 2017–26532 Filed 12–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 17–106, FCC 17–137]

Elimination of Main Studio Rule

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved the non-substantive change request for the information collection requirements contained in FCC 17–137. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of these rules.

DATES: 47 CFR 73.3526(c)(1) and 73.3527(c)(1), published at 82 FR 57876, December 8, 2017 are effective on January 8, 2018.

FOR FURTHER INFORMATION CONTACT: Diana Sokolow, Policy Division, Media Bureau, at (202) 418–2120, or email: *diana.sokolow@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on December 4, 2017, OMB approved the non-substantive change request that the Commission submitted pertaining to the revisions to sections 73.3526(c)(1) and 73.3527(c)(1) contained in the Commission's *Order,* FCC 17–137, published at 82 FR 57876, December 8, 2017. The OMB Control Number is 3060–0214. The non-substantive changes to OMB control number 3060–0214 did not change the burden hours or annual costs to that information collection. They remain unchanged and those burdens and costs are not impacted by the information collection requirements contained in FCC 17–137. The Commission publishes this notice as an announcement of the effective date of the rules. Because we received OMB approval for the non-substantive change request in advance of the effective date for the rule changes that did not require OMB approval, all of the rule changes contained in the Commission's Order, FCC 17–137, will share the same effective date of January 8, 2017.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–27197 Filed 12–15–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161017970–6999–02]

RIN 0648–XF879

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2017 commercial summer flounder quota to the Commonwealth of Massachusetts. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial quotas for Virginia and Massachusetts.

DATES: Effective December 13, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the initial 2017 allocations were published on December 22, 2016 (81 FR 93842).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i)(A) through (C) in the evaluation of requests for quota transfers or combinations.

Virginia is transferring 3,585 lb (1,626 kg) of summer flounder commercial quota to Massachusetts. This transfer was requested to repay landings by a Virginia-permitted vessel that landed in Massachusetts under a safe harbor agreement. The revised summer flounder quotas for calendar year 2017 are now: Virginia, 1,216,289 lb (551,699 kg); and Massachusetts, 389,573 lb (176,707 kg); based on the initial quotas published in the 2017 Summer Flounder, Scup, and Black Sea Bass Specifications and subsequent transfers. The summer flounder fishery in Massachusetts closed on July 20, 2017 (82 FR 33827). Despite this transfer, there is insufficient quota available to reopen the commercial summer flounder fishery in Massachusetts, and as a result, this fishery remains closed for the remainder of 2017.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 13, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–27179 Filed 12–13–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 82, No. 241

Monday, December 18, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS–NOP–15–0012; NOP–15–06]

RIN 0581–AD75

National Organic Program (NOP); Organic Livestock and Poultry Practices—Withdrawal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth the U.S. Department of Agriculture's (USDA or Department) intention to withdraw the Organic Livestock and Poultry Practices (OLPP) final rule published in the **Federal Register** on January 19, 2017, by USDA's Agricultural Marketing Service (AMS). The OLPP final rule amends the organic livestock and poultry production requirements in the USDA organic regulations by adding new provisions for livestock handling and transport for slaughter and avian living conditions; and expands and clarifies existing requirements covering livestock care and production practices and mammalian living conditions. The OLPP final rule was originally set to take effect on March 20, 2017. The effective date has been extended to May 14, 2018 under separate actions.

DATES: Interested persons are invited to submit written comments on this proposed rule on or before January 17, 2018.

ADDRESSES: We invite you to submit comments on the proposed rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Paul Lewis, Ph.D., Director, Standards Division, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW, Room 2642–So., Ag Stop 0268, Washington, DC 20250–0268.

Instructions: All submissions received must include the docket number AMS–NOP–15–0012; NOP–15–06, and/or Regulatory Information Number (RIN) 0581–AD75 for this rulemaking. You should clearly indicate the reason(s) for your stated position. All comments received and any relevant background documents will be posted without change to *http://www.regulations.gov.*

Document: For access to the document and to read background documents or comments received, go to *http://www.regulations.gov.* Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, National Organic Program, Room 2642–South Building, 1400 Independence Ave. SW, Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Ph.D., Director, Standards Division, Telephone: (202) 720–3252; Fax: (202) 720–7808.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6522), authorizes the United States Department of Agriculture (USDA) to establish national standards governing the marketing of certain agricultural products as organically produced to assure consumers that organically produced products meet a consistent standard and to facilitate interstate commerce in fresh and processed food that is organically produced. USDA's Agricultural Marketing Service (AMS) administers the National Organic Program (NOP) under 7 CFR part 205.

On April 13, 2016, AMS published the OLPP proposed rule in the **Federal Register** (81 FR 21956).

On January 19, 2017, AMS published the OLPP final rule in the **Federal Register** (82 FR 7042). This rule was scheduled to take effect on March 20, 2017.

On January 20, 2017, the Assistant to the President and Chief of Staff sent a memorandum titled ''Regulatory Freeze Pending Review'' to USDA and other federal executive departments and agencies. Accordingly, on February 9, 2017, AMS published a notice in the **Federal Register** (82 FR 9967) delaying the OLPP final rule's effective date until May 19, 2017.

On May 10, 2017, AMS published two documents regarding the OLPP final rule in the **Federal Register**. The first document delayed the OLPP final rule's effective date until November 14, 2017 (82 FR 21677). The second document presented four options for agency action (82 FR 21742). Interested parties were invited to submit comments on the four options on or before June 9, 2017.

On November 14, 2017, AMS published a final rule in the **Federal Register** (82 FR 52643) delaying the effective date of the OLPP final rule until May 14, 2018 to allow AMS the opportunity to gather additional public comments on important questions regarding USDA's statutory authority to promulgate the OLPP final rule and the likely costs and benefits of the rule.

II. Overview of Action Being Considered

By this notice, AMS is proposing to withdraw the OLPP final rule. *See* 82 FR 7042 (January 19, 2017). USDA has reviewed the OLPP final rule and is initiating this action based on the outcome of that review. Specifically, USDA proposes withdrawing the OLPP rule based on its current interpretation of 7 U.S.C. 6905, under which the OLPP final rule would exceed USDA's statutory authority. Withdrawal of the OLPP rule also is independently justified based upon USDA's revised assessments of its benefits and burdens and USDA's view of sound regulatory policy. If this withdrawal is finalized, the existing organic livestock and poultry regulations now published at 7 CFR part 205 would remain effective. AMS seeks comments on the proposal to withdraw the OLPP final rule.

III. Related Documents

Documents related to this OLPP final rule include: OFPA (7 U.S.C. 6501—6524) and its implementing regulations (7 CFR part 205); the Organic Livestock and Poultry Practices proposed rule published in the **Federal Register** on April 13, 2016 (81 FR 21956); the OLPP final rule published in the **Federal Register** on January 19, 2017 (82 FR 7042); the final rule delaying the OLPP

final rule's effective date until May 19, 2017, published by AMS in the **Federal Register** on February 9, 2017 (82 FR 9967); the final rule delaying the OLPP final rule's effective date until November 14, 2017, published by AMS in the **Federal Register** on May 10, 2017 (82 FR 21677); a second proposed rule presenting the four options for agency action listed in Section I, *supra,* published by AMS in the **Federal Register** on May 10, 2017 (82 FR 21742); and a final rule further delaying the OLPP final rule's effective date until May 14, 2018, published by AMS in the **Federal Register** on November 14, 2017 (82 FR 52643).

IV. Legal Authority

The basis for the proposed withdrawal of the OLPP final rule is USDA's current interpretation of OFPA, which is discussed in this notice and USDA's revised assessment of the regulatory benefits and burdens of the OLPP rule.[1] USDA invites comment generally on the regulatory and other policy implications of the legal interpretation of OFPA proposed in this action.

OFPA is the statutory authority for the OLPP final rule as well as for this rulemaking. AMS believes that withdrawing the Organic Livestock and Poultry Practices final rule is appropriate in light of its interpretation of the scope of authority granted to USDA by OFPA and to maintain consistency with USDA regulatory policy principles. If this proposed rule to withdraw is finalized, the existing organic livestock and poultry regulations now published at 7 CFR part 205 would remain effective.

V. Rationale for Withdrawing Organic Livestock and Poultry Practices OLPP Final Rule

This section provides AMS' primary reasons for proposing to withdraw the OLPP final rule.

A. Authority Under the OFPA To Issue Animal Welfare Regulations

The OLPP final rule consisted, in large part, of rules clarifying how producers and handlers participating in the National Organic Program must treat livestock and poultry to ensure their wellbeing (82 FR 7042). AMS is proposing to withdraw the OLPP final rule because it now believes OFPA does not authorize the animal welfare provisions of the OLPP final rule. Rather, the agency's current reading of the statute, given the relevant language and context, suggests OFPA's reference to additional regulatory standards ''for the care'' of organically produced livestock should be limited to health care practices similar to those specified by Congress in the statute, rather than expanded to encompass stand-alone animal welfare concerns. 7 U.S.C. 6509(d)(2).

USDA believes that the Department's power to act and how it may act are authoritatively prescribed by statutory language and context; USDA believes that it may not lawfully regulate outside the boundaries of legislative text.[2] Therefore, in considering the scope of its lawful authority, USDA believes the threshold question should be whether Congress has authorized the proposed action. If, however, a statute is silent or ambiguous with respect to a specific issue, then USDA believes that its interpretation is entitled to deference and the question becomes simply whether USDA's action is based on a permissible statutory construction.[3]

USDA believes 7 U.S.C. 6509 is the relevant authority for OFPA-related regulations governing animal production practices. USDA further believes that it should adhere to this legislative text and that it lacks the power to tailor legislation to policy goals, however worthy, by rewriting unambiguous statutory terms. Rather, USDA believes it may properly exercise discretion only in the interstices created by statutory silence or ambiguity and must always give effect to the unambiguously expressed intent of Congress.[4]

The OLPP final rule is a broadly prescriptive animal welfare regulation governing outdoor access and space, transport, and slaughter, among other things. (82 FR 7042, 7074, 7082). USDA's general OFPA implementing authority was used as justification for the OLPP final rule, which cited 7 U.S.C. 6509(g) as ''convey(ing) the intent for the USDA to develop more specific standards. . . .'' (82 FR 7043), and 7 U.S.C. 6509(d)(2) as authorizing regulations for animal ''wellbeing'' and the ''care of livestock.'' (82 FR 7042, 7074, 7082).

But nothing in Section 6509 authorizes the broadly prescriptive, stand-alone animal welfare regulations contained in the OLPP final rule.[5] Rather, section 6509 authorizes USDA to regulate with respect to discrete aspects of animal production practices and materials: Breeder stock, feed and growth promoters, animal health care, forage, and record-keeping. Section 6509(d) is titled ''Health Care.''

[1] USDA's legal authority to revisit the OLPP final rule is well-established. As an initial matter, agencies have broad discretion to reconsider a regulation at any time. *Clean Air Council* v. *Pruitt,* 862 F.3d 1, 8–9 (DC Cir. 2017). Furthermore, USDA's interpretation of OFPA ''is not instantly carved in stone,'' but may be evaluated ''on a continuing basis.'' *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 863–64 (1984). This is true when, as is the case here, the agency's review is undertaken in response to a change in administrations. *National Cable & Telecommunications Ass'n* v. *Brand X Internet Services,* 545 U.S. 967, 981 (2005).

[2] *City of Arlington* v. *FCC,* 133 S. Ct. 1863, 1868 (2013).

[3] *See Chevron, U.S.A.,* 467 U.S. at 843; *City of Arlington,* 133 S. Ct. at 1871. USDA believes that fidelity to the Constitution and to the rule of law are better served when regulatory authority is firmly grounded in plain statutory text. *Id.* at 1876 (Scalia, J.) (''The fox-in-the-henhouse syndrome is to be avoided. . . . by taking seriously, and applying rigorously, *in all cases,* statutory limits on agencies' authority'') (emphasis added); *id.* at 1879 (Roberts, CJ., dissenting) (''the danger posed by the growing administrative state cannot be dismissed''); *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579, 593–94 (1952) (Frankfurter, J., concurring) (''The accretion of dangerous power does not come in a day. . . . [but] slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority''); *FTC* v. *Ruberoid Co.,* 343 U.S. 470, 487 (1952) (Jackson, J., dissenting) (the administrative state ''has deranged our three-branch legal theories''). USDA generally believes that it may promulgate rules that are reasonable in light of the text, nature, and purpose of the relevant statute in cases of gaps or ambiguity. *United States* v. *Mead Corp.,* 533 U.S. 218, 229 (2001). However, USDA also believes Congress knows to speak in plain terms when it wishes to circumscribe, and in capacious terms when it wishes to enlarge, USDA's discretion. *Compare* 7 U.S.C. 6509(g), *with* 7 U.S.C. 2151 (''The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter''), 15 U.S.C. 1823(c) (''The Secretary shall prescribe by regulation requirements . . . to detect and diagnose a horse that is sore . . .''), 35 U.S.C. 316(a)(4) (the Patent Office has the authority to issue ''regulations . . . establishing and governing inter parties review under this chapter''), and 49 U.S.C. 40103(b) (FAA shall ''prescribe air traffic regulations''); *see generally Cuzzo Speed Technologies, LLC* v. *Lee,* 136 S. Ct. 2131, 2142–43 (2016); *City of Arlington,* 133 S. Ct. at 1868.

[4] *See generally Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S. Ct. 2427, 2441, 2445–46 (2014) (citations omitted).

[5] Congress directed USDA to establish national standards governing the marketing of certain agricultural products as organically produced products; to assure consumers that organically produced products meet a consistent standard; and to facilitate interstate commerce in fresh and processed food that is organically produced, assure consumers that organically produced products meet a consistent standard, among other things. 7 U.S.C. 6501. However, OFPA's plain language does not mandate, and arguably limits, the Secretary's authority to promulgate prescriptive rules governing how producers meet programmatic standards. Instead, USDA believes a contextual reading of OFPA suggests a regulatory approach based on market-based solutions is more appropriate. *See* 7 U.S.C. 6503–11 (setting standards); 7 U.S.C. 6509(g) (authorizing promulgation of regulations to ''guide implementation of standards . . .''); 7 U.S.C. 6512 (''If a production or handling practice is not prohibited or otherwise restricted under this chapter, such practice shall be permitted unless it is determined that such practice would be inconsistent with the applicable organic certification program'').

Subsection 6509(d)(1) identifies prohibited health care practices, including subtherapeutic doses of antibiotics; routine synthetic internal parasiticides; and medication, other than vaccinations, absent illness. Reading the plain language in context, AMS now believes that the authority granted in section 6509(g) for the Secretary to issue regulations fairly extends only to those aspects of animal care that are similar to those described in section 6509(d)(1) *and* that are shown to be necessary to meet the congressional objectives specified in 7 U.S.C. 6501.[6] The Secretary's authority to promulgate rules under section 6509(g) is similarly circumscribed: He may ''develop detailed regulations'' only to ''guide the implementation of the standards for livestock products *provided under this section.*'' 7 U.S.C. 6509(g) (emphasis added).

AMS finds that its rulemaking authority in section 6509(d)(2) should not be construed in isolation, but rather should be interpreted in light of section 6509(d)(1) and section 6509(g). Furthermore, even if OFPA is deemed to be silent or ambiguous with respect to this issue, AMS believes that a decision to withdraw the OLPP final rule based on section 6509's language, titles, and position within Chapter 94 of Title 7 of the United States Code;[7] controlling Supreme Court authorities; and general USDA regulatory policy, would be a permissible statutory construction. AMS seeks comment on this issue.

B. Impact of OLPP Final Rule on Producers

AMS notes that organic producers have already made significant investments in facilities and infrastructure to support the growing organic market under the current USDA organic regulations, and there has been significant growth in the organic market under the existing regulatory regime. This suggests that the present regulatory regime is meeting statutory objectives of reassuring consumers of organic integrity and facilitating interstate commerce in organic products, which coincides with the growth in the organic poultry sector. From 2007 to 2016, the organic egg market grew 12.7 percent annually which shows consumer confidence in the products produced under the current standards. The organic industry continues to grow domestically and globally, with USDA's Organic Integrity Database listing 24,650 certified organic operations in the United States, and 37,032 around the world, at the end of 2016. The 2016 count of U.S. certified organic farms and businesses reflects a 13% increase between the end of 2015 and 2016, continuing a trend of double-digit growth in the organic sector. The number of certified operations has continuously increased since the count began in 2002; the 2015–2016 increase was one of the highest annual increases since 2008. According to the Organic Trade Association's (OTA's) 2017 Organic Industry Survey, organic sales reached almost $47 billion in 2016, reflecting an increase of almost $3.7 billion above the $43 billion mark achieved in 2015.

Furthermore, as a policy matter and a general principle, USDA is concerned that the OLPP final rule's prescriptive codification of current industry practices in the dynamic, evolving marketplace could have the unintended consequence of preventing or stunting future market-based innovation in response to rapidly evolving social and producer norms. Overly prescriptive regulation can discourage technological and social innovation, especially by small firms and consumers, distorting or even preventing technological development. Lacking evidence of the material market failure to justify prescriptive regulatory action, AMS is concerned that the OLPP rule may hamper market-driven innovation and evolution and impose unnecessary regulatory burdens. AMS welcomes comment on these concerns.

C. Executive Orders 12866, 13563, and 13771

This section provides an Executive Summary of the Preliminary Regulatory Impact Analysis (PRIA). Copies of the full analysis are available on the *Regulations.gov* website. This rulemaking has been designated as an ''economically significant regulatory action'' under Executive Order 12866, and, therefore, has been reviewed by the Office of Management and Budget (OMB).

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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Executive Order 13771 directs Agencies to identify at least two existing regulations to be repealed for every new regulation unless prohibited by law. The total incremental cost of all regulations issued in a given fiscal year must have costs within the amount of incremental costs allowed by the Director of the Office of Management and Budget, unless otherwise required by law or approved in writing by the Director of the Office of Management and Budget. This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's PRIA, posted separately and summarized below.

The estimated costs in the OLPP final rule were based on three potential scenarios. First, if the OLPP final rule were implemented and if all organic livestock and poultry producers were to come into compliance, the estimated cost to the industry would have been $28.7 to $31 million each year. Second, if 50 percent of the organic egg producers moved to the cage-free egg market and the organic industry continues to grow at historical rates, the costs would be $11.7–$12.0 million. Third, if 50 percent of the organic egg producers moved to the cage-free egg market and there were no new entrants that could not already comply, the costs would be $8.2 million. These costs do not include an additional $1.95–$3.9 million associated with paperwork burden.

The OLPP final rule estimated the benefits from the rule's implementation as $4.1 to $49.5 million annually. The estimated benefits spanned a wider range than the estimated costs and were based on research that measured consumers' willingness-to-pay for outdoor access for laying hens. The OLPP final rule acknowledged that the benefits were difficult to quantify.

In reviewing the OLPP final rule, AMS found that the calculation of benefits contained mathematical errors in calculating the discount rates of 7% and 3%. AMS also found the estimated benefits over time were handled differently than were the estimated costs over time. In addition, the range used for estimating the benefit interval could be replaced with more suitable estimates. The revised calculations of benefits are presented in the accompanying PRIA.

[6] *Compare* 7 U.S.C. 6509(g) (regulations to ''guide the implementation of standards for livestock products'') *with* 7 U.S.C. 2151 (''The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter''), 15 U.S.C. 1823(c) (''The Secretary shall prescribe by regulation requirements . . . to detect and diagnose a horse that is sore . . .'', and 49 U.S.C. 40103(b) (FAA shall ''prescribe air traffic regulations'').

[7] *See Yates* v. *United States,* 135 S. Ct. 1074, 1082 (2015).

As a result of reviewing the calculation of estimated benefits, AMS reassessed the economic basis for the rulemaking as well as the validity of the estimated benefits. On the basis of that reassessment, AMS finds little, if any, economic justification for the OLPP final rule.

The RIA for the OLPP final rule did not identify a significant market failure to justify the need for rule. The RIA for the OLPP final rule noted that there is wide variance in production practices within the organic egg sector and asserted that ''as more consumers become aware of this disparity, they will either seek specific brands of organic eggs or seek animal welfare labels in addition to the USDA organic seal.'' AMS also found the ''majority of organic producers also participate in private, third-party verified animal welfare certification programs.'' OLPP final rule RIA (*https://www.ams.usda.gov/sites/default/files/media/OLPPSupplemental DocAnalysis.pdf*) at 14. Variance in production practices and participation in private, third-party certification programs, however, do not constitute evidence of significant market failure.

First, while AMS recognizes that the purpose of the OFPA is to assure consumers that organically produced products meet a consistent and uniform standard, that purpose does not imply that there should be no variation in organic production practices. Rather, a variety of production methods may be employed to meet the same standard. Some may be more labor intensive and others more capital intensive, and some may be appropriate for small operations while others are appropriate for large operations. Importantly, producers will adopt different production methods over time as technology evolves and enables operations to meet the same standard more efficiently. Thus, variation in production practices is expected and does not stand as an indicator of a significant market failure.

Second, private, third-party certification programs are common in the dynamic food sector. The fact that organic suppliers participate in such programs does not indicate a market failure with respect to the standards promulgated under the USDA NOP. Rather, the use of third-party certifications in addition to the USDA organic seal merely indicates that participants in the food sector seek ways to differentiate their products from those of their competitors. The fact that some aspects of a private certification may overlap with the requirements underlying the USDA organic seal demonstrates that food producers, manufacturers, and retailers use multiple methods to communicate with consumers about the attributes of the foods that they produce and sell. Private, third-party certifications reflect attributes that food sellers wish to emphasize, and the existence of such certifications on organic products provides no evidence of a significant market failure relating to USDA organic standards.

Notwithstanding the lack of a market failure justification for the OLPP final rule, the accompanying PRIA explains several calculation errors associated with the OLPP final rule RIA. The PRIA also provides additional information regarding the estimated benefits and explains why they likely were overstated in the OLPP final rule RIA. In any case, withdrawing the OLPP final rule would prevent the negative cost impacts from taking effect, resulting in substantial organic poultry producer cost savings of $8.2 to $31 million annually, plus additional cost savings of $1.95–$3.9 million from paperwork reduction.

Consideration of Alternatives

AMS considered three alternatives in developing this proposed rule. The first alternative considered was to implement the Organic Livestock and Poultry Practices final rule on May 14, 2018, which is the current effective date. The second alternative was to further delay the final rule. The third alternative, which is the selected alternative, was to withdraw the final rule.

For the first alternative, if the OLPP final rule were to become effective on May 14, 2018, the costs and transfers described in the PRIA would be expected to occur, resulting in requirements with substantial costs not supported by evidence of significant market failure.

The second alternative considered was to further delay the OLPP final rule. This alternative, however, would defer the decision on whether to implement or withdraw to a future date, despite the agency having performed its review and received comments from the public. This alternative fails to achieve USDA's goal of reducing regulatory uncertainty.

AMS is proposing the third alternative, to withdraw the OLPP final rule as the preferred alternative. This alternative estimates cost savings for poultry producers of $8.2 to $31 million per year (based on 15-year costs). In addition, $1.95–$3.9 million in annual paperwork burden would not be incurred. As described in the PRIA, the range of benefits could be expected to be lower than shown in the OLPP final rule RIA. Moreover, *a priori,* the benefits associated with any government intervention without there being an identifiable market failure will be lower than the required costs of imposing such an intervention. Given the unclear nature of the market failure being addressed by the OLPP final rule, AMS would give clear preference to the lower end of the benefit range, which consistently fall below the costs associated with the OLPP final rule.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market.

Data suggest nearly all organic egg producers qualify as small businesses. OLPP Final Rule RIA (*https://www.ams.usda.gov/sites/default/files/media/OLPPSupplemental DocAnalysis.pdf*) at 140–141. Small egg producers are listed under NAICS code 112310 (Chicken Egg Production) as grossing less than $15,000,000 per year, and AMS estimates that out of 722 operations reporting sales of organic eggs, only four are not small businesses. However, the RIA found that some small egg producers and small chicken (broiler) producers will be affected by the poultry outdoor access and space provisions. *See* OLPP Final Rule RIA at 136–138, 142, 145–146. Furthermore, the RIA of the OLPP final rule notes that some producers were particularly concerned about limited land availability for outdoor access requirements and the potential for increased mortality attendant to the new regulatory demands. These were identified as sources of burdensome costs and/or major obstacles to compliance for some small businesses. *See id.* at 26–28. Based on surveys of organic egg producers, AMS believes approximately fifty percent of layer production will not be able to acquire additional land needed to comply with the OLPP final rule. *Id.* at 142. Also, certain existing certified organic slaughter facilities could surrender their organic certification as a result of the OLPP final rule and certain businesses currently providing livestock transport services for certified organic producers or slaughter facilities may be unwilling to meet and/or document compliance with the livestock transit requirements. *Id.* at 149.

Withdrawing the OLPP final rule would avoid these economic impacts,

without introducing any incremental burdens or erecting barriers that would restrict the ability of small entities to compete in the market. This conclusion is supported by the historic growth of the organic industry without the regulatory amendments. The demand for organic food has continued to grow over the past ten years under the current regulatory regime.

This proposed rule would relieve producers of the costs of complying with the Organic Livestock and Poultry Practices final rule. The effects would be beneficial, but not significant. A small number of entities may experience time and money savings as a result of not having to change practices to comply with the OLPP final rule. Affected small entities would include organic egg and organic broiler producers. The proposed rule would not have a significant economic impact on a substantial number of small entities.

Under these circumstances, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

VII. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations to avoid unduly burdening the court system.

Pursuant to section 6519(f) of OFPA, if finalized, this rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301–399) or the Public Health Service Act (42 U.S.C. 201–300), nor the authority of the Administrator of the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136–136(y)).

VIII. Paperwork Reduction Act

No additional collection or recordkeeping requirements would be imposed on the public by withdrawing the OLPP final rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), Chapter 35. Withdrawing the OLPP final rule will avoid an estimated $1.95–$3.9 million in costs for increased paperwork burden associated with that final rule.

IX. Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

AMS has assessed the impact of this rule on Indian tribes and determined that this rule would not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, AMS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

X. Civil Rights Impact Analysis

AMS has reviewed this draft rule in accordance with the Department Regulation 4300–4, Civil Rights Impact Analysis, to address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. AMS has determined that withdrawing the OLPP final rule would not affect producers in protected groups differently than the general population of producers.

XI. Conclusion

In compliance with USDA's interpretation of the OFPA and consistent with USDA regulatory policy, AMS is proposing to withdraw the OLPP final rule.

Dated: December 14, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–27316 Filed 12–15–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 430

Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products

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

ACTION: Request for information and notification of public meeting.

SUMMARY: As part of its implementation of, ''Reducing Regulation and Controlling Regulatory Costs,'' (January 30, 2017) and, ''Enforcing the Regulatory Reform Agenda,'' (Feb. 24, 2017), the Department of Energy (DOE) is seeking comments and information from interested parties to assist DOE in identifying potential modifications to its ''Process Rule'' for the development of appliance standards to achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations in the development of appliance standards. DOE will also hold a public meeting to receive input from interested parties on potential improvements to the ''Process Rule''. This RFI is the first in a series of steps DOE is taking to consider modifications to the ''Process Rule.'' Subsequently, DOE expects to expeditiously publish an ANPRM that will provide feedback on the public comment received in response to this notice and seek additional information on potential improvements to our process for developing and promulgating energy efficiency standards.

DATES: Written comments and information are requested on or before February 16, 2018. A public meeting will be held on January 9, 2018.

ADDRESSES: The public meeting will begin at 9:30 a.m., at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW, Washington, DC 20585.

Interested persons are encouraged to submit comments, identified by ''Process Rule RFI,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Regulatory.Review@hq.doe.gov.* Include ''Process Rule RFI'' in the subject line of the message.
- *Mail:* U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW, Room 6A245, Washington, DC 20585.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Caitlin Davis, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585. Email: *Regulatory.Review@hq.doe.gov,* Phone: 202–586–6803.

SUPPLEMENTARY INFORMATION: On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' The Order required the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO is tasked with overseeing the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law.

To implement these Executive Orders, the Department, among other actions, issued a Request for Information (RFI) seeking public comment on how best to achieve meaningful burden reduction while continuing to achieve the Department's regulatory objectives. 82 FR 24582 (May, 30, 2017). In response to this RFI, the Department received a number of comments pertaining to DOE's Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products, codified at 10 CFR part 430, subpart C, appendix A. Although DOE has declined to follow them in a number of cases in the recent past, DOE generally uses the procedures set forth in the Process Rule to prescribe energy conservation standards for both consumer products and commercial equipment pursuant to the Energy Policy and Conservation Act of 1975 (Pub. L. 94–163, 42 U.S.C. 6291, *et seq.* ''EPCA'') (EPCA). These procedures are commonly referred to as the ''Process Rule''. DOE's objectives in establishing these procedures include: (1) Providing for early input from stakeholders; (2) increasing predictability of the rulemaking timetable; (3) increasing the use of outside technical expertise; (4) eliminating problematic design options early in the process; (5) fully consider non-regulatory approaches; (6) conducting a thorough analysis of impacts; (7) using transparent and robust analytical methods; (8) articulating policies to guide selection of standards; and (9) supporting efforts to build consensus on standards.

In this RFI, and through the public meeting announced in the **DATES** section, DOE seeks additional comments and information on potential improvements to the Process Rule. DOE welcomes comment on all aspects of the Process Rule that interested parties believe could be improved, including specific changes to the existing text of appendix A to subpart C of part 430 or other suggestions on how to accomplish the suggested improvements. In the paragraphs that follow, DOE also provides a list of several issue areas on which it is particularly interested in receiving comments. DOE developed these issue areas based on feedback received in response to previous regulatory reform efforts related to the Process Rule. These efforts include DOE's recent regulatory reform RFI. DOE also developed issue areas based on changes in the law since the original promulgation of the Process Rule, and on DOE's experience in promulgating standards using the procedures set out in the rule. The issues discussed in this notice are not a comprehensive list of the areas in which DOE is considering reforms. DOE intends to provide additional opportunities for public feedback as DOE moves forward to expeditiously effectuate improvements to the Process Rule. DOE may also consider various process and methodological improvements separate from those specific procedures described in this document.

Issue Areas

A. Direct Final Rules

The Energy Independence and Security Act of 2007 (EISA) (Pub. L. 110–140) amended EPCA, in relevant part, to grant DOE authority to issue a ''direct final rule'' (DFR) to establish energy conservation standards. (Direct final rule is a term used generically to describe a type of rulemaking proceeding.) As amended, EPCA establishes the requirements for DOE to use this type of rulemaking proceeding for the issuance of certain actions. Specifically, DOE may issue a DFR adopting energy conservation standards for a covered product upon receipt of a joint proposal from a group of ''interested persons that are fairly representative of relevant points of view,'' provided DOE determines the energy conservation standards recommended in the joint proposal conform with the requirements of 42 U.S.C. 6295(o). (42 U.S.C. 6295(p)(4)(A)) Simultaneous with the issuance of a DFR, DOE must also issue a notice of proposed rulemaking (NOPR) containing the same energy conservation standards in the DFR. Following publication of the DFR, DOE must solicit public comment for a period of at least 110 days; then, not later than 120 days after issuance of the DFR, the Secretary must determine whether any adverse comments ''may provide a reasonable basis for withdrawing the DFR,'' based on the rulemaking record and specified statutory provisions. (42 U.S.C. 6295(p)(4)(B), (C)(i)) Upon withdrawal, the Secretary must proceed with the rulemaking process under the NOPR that was issued simultaneously with the DFR and publish the reasons the DFR was withdrawn. (42 U.S.C. 6295(C)(ii)) If the Secretary determines not to withdraw the DFR, it becomes effective as specified in the original issuance of the DFR.

In response to a 2011 DFR in which DOE established energy conservation standards for residential furnaces, central air conditioners, and heat pumps, the American Public Gas Association filed a petition for review in the DC Circuit on December 23, 2011, challenging the validity of the rule. Various environmental and commercial interest groups joined each side of the case, reflecting various viewpoints. On March 11, 2014, all parties filed a joint motion presenting final terms of settlement in the case (''Joint Motion'').

Pursuant to the Joint Motion, DOE published an RFI on October 31, 2014 (''October RFI'') seeking public input on several aspects of the DFR process. 79 FR 64705. In the October RFI, DOE explained that it was conducting a notice-and-comment proceeding to clarify its interpretation and implementation of certain aspects of the DFR process and requested comment on three issues: (1) When a joint statement with recommendations related to an energy or water conservation standard would be deemed to have been submitted by ''interested persons that are fairly representative of relevant points of view,'' thereby permitting use

of the DFR mechanism; (2) the nature and extent of ''adverse comments'' that may provide the Secretary a reasonable basis for withdrawing the DFR, leading to further rulemaking under the accompanying NOPR; and (3) what constitutes the ''recommended standard contained in the statement,'' and the scope of any resulting DFR. *Id.* at 64706.

With respect to (2) concerning the consideration of adverse comments, DOE created a balancing test as part of a 2011 DFR. 76 FR 37408, 37422 (June 27, 2011). DOE has used this test consistently for DFRs it has issued to date. In the balancing test, DOE considers the substance of all adverse comments received (rather than quantity) and weighs them against the anticipated benefits of the Consensus Agreement and the likelihood that further consideration of the comments would change the results of the rulemaking. As a result of this latter consideration, DOE does not consider adverse comments that had been previously raised and addressed at an earlier stage in the rulemaking proceeding. DOE developed this balancing test approach to managing adverse comments to assist the Secretary in determining whether the comments provide a reasonable basis for withdrawing the DFR.

Request for comment: DOE seeks comment on whether to amend the process rule to include provisions related to the use of DFRs. The development of DFRs by a representative group of regulated entities and other stakeholders can achieve a number of the objectives set out in the Process Rule, such as providing for early input from stakeholders and supporting efforts to build consensus on standards. DOE seeks comment on the balancing test and what constitutes a change in results of the standards or supporting analysis that the agency should consider when determining whether the comments provide a reasonable basis for withdrawing the DFR. To assist DOE in the development of any appropriate revisions, DOE also seeks further comment on the three issues outlined above from the October 2014 RFI. DOE also seeks comment on what it means for a statement to be submitted by interested persons that are ''fairly representative of relevant points of view.'' DOE seeks comment on what constitutes a relevant point of view and whether DOE should ensure that *all* relevant points of view have been taken into account before using the EPCA authority in 42 U.S.C. 6295(p)(4) to issue a DFR. More generally, DOE seeks comments on the strengths and weaknesses of using the DFR process to promulgate energy conservation standards.

B. Negotiated Rulemaking

Negotiated rulemaking is a process by which an agency attempts to develop a consensus proposal for regulation in consultation with all interested parties and before issuing a proposed rule.[1] The process allows an agency to address salient comments from interested parties prior to issuing a proposed rule. Consequently, negotiated rulemaking can yield better and more thoroughly vetted outcomes and may in some circumstances decrease the likelihood of costly litigation. DOE uses negotiated rulemakings as a means to engage the public, gather data and information, and attempt to reach consensus among interested parties to advance the rulemaking process.

In pursuit of the Department's goal of promoting negotiated rulemakings in appropriate cases, DOE established the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to comply with the Federal Advisory Committee Act (FACA), Public Law No. 92–463 (1972) (codified at 5 U.S.C. App. 2). Generally speaking, FACA regulates the formation and operation of advisory committees by Federal agencies. The Department meets all of the FACA requirements for new advisory committees including public notice and a determination that the establishment will be in the public interest, a clearly defined purpose,[2] membership that is fairly balanced in terms of points of view represented and the functions to be performed, and meetings that are open to public observation, subject to the exceptions as provided in the Government in the Sunshine Act (5 U.S.C. 552(b)).

As part of the DOE process, working groups have been established for specific products and one member from the ASRAC committee attends the meetings of a specific working group. Ultimately, the working group reports to ASRAC, and ASRAC itself votes on whether to adopt a consensus agreement. In each negotiated rulemaking proceeding, DOE includes a process whereby the working group discusses and votes on how to define consensus. The Negotiated Rulemaking Act (NRA) defines consensus for a negotiated proceeding as being unanimity unless the negotiating group unanimously agrees to a different definition. In the cases where the group unanimously agrees to a different definition other than unanimous consensus, the selection of members to the working group becomes even more important. DOE's role in the negotiated rulemaking process is to provide technical advice to the parties and provide legal input where needed. DOE also has a vote in the consensus process among all of the parties of ASRAC.

In DOE's experience with using negotiated rulemaking, DOE has found that the process allows real-time adjustments to the analyses as the working group is considering them, and it allows disparate parties to negotiate face-to-face regarding the terms of a potential standard. Negotiated rulemakings encourage manufacturers in a more direct manner to provide data to assist with the analysis which can help to better account for manufacturer concerns. It is important that agencies encourage full public participation in the process to ensure that the interests of parties who would be significantly affected by the rule are represented in the negotiations leading up to the proposed rule issued for public comment. In particular, the Negotiated Rulemaking Act (NRA) requires agencies to determine, in determining whether to proceed with a negotiated rulemaking, that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed action. 5 U.S.C. 565(a). The NRA further provides for agencies to use ''convenors'' to assist in identifying persons who would be significantly affected by a proposed rule, identifying issues of concern to these persons, and ascertaining whether establishment of a negotiated rulemaking committee is feasible and appropriate for a particular rulemaking. 5 U.S.C. 563(b). Facilitators can also be used to, as described in the NRA, chair meetings and assist members of the committee in conducting discussions. The facilitator, who cannot be a person designated to represent the agency on substantive issues, is to accomplish both of these tasks in an impartial manner. 5 U.S.C. 566(c). DOE has in the past used convenors and facilitators for some of its negotiated rulemakings and found that these individuals can assist DOE in

[1] This process is conducted in accordance with the requirements of the Negotiated Rulemaking Act (NRA), Public Law 104–320 (5 U.S.C. 561–570).

[2] ASRAC was created as a discretionary advisory committee to provide advice and recommendations related to: (1) The development of minimum efficiency standards for appliances and equipment, (2) the development of product test procedures; (3) the certification and enforcement of standards; (4) the labeling for various appliances and equipment; (5) specific issues of concern to DOE as requested by the Secretary of Energy, the Assistant Secretary for Energy Efficiency and Renewable Energy, and DOE's Building Technologies Office.

ensuring that relevant points of view are represented in the development of any particular rulemaking.

Request for comment: DOE seeks comment on whether to amend the Process Rule to include the use of negotiated rulemaking in appropriate cases. The use of negotiated rulemaking can also achieve many of the objectives of the Process Rule, such as providing for early input from stakeholders; increasing the use of outside technical expertise and eliminating problematic design options early in the process, while exploring reasonable alternatives for consideration, when manufacturers and other interested parties can offer and debate expertise, data and information in real time as the rule is developed; conducting a thorough analysis of impacts for all alternatives that may affect different stakeholders differently and using transparent and robust analytical methods, for the same reasons; and supporting efforts to build consensus on standards when appropriate. DOE seeks comment on any and all issues related to the use of negotiated rulemaking in the development of energy conservation standards, including how DOE can improve its current use of the process as envisioned by the NRA. DOE acknowledges the concern that relevant parties or points of view must be represented during the negotiations to ensure the most appropriate outcome and associated burden and distribution of costs. In particular, DOE seeks comment on whether the Process Rule should be amended to provide for the use of a convenor or facilitator for each negotiated rulemaking. DOE also requests comment on amendments to the Process Rule that would ensure that all reasonable alternatives are explored in that process, including the option of not amending or issuing a standard and alternatives that will affect different stakeholders differently. DOE also requests comment on the use of the DFR mechanism at the conclusion of a negotiated rulemaking. (DFRs are discussed in Section A.)

C. Elimination of the Statutory Requirement for an Advance Notice of Proposed Rulemaking; Inclusion of Alternate Means To Gather Additional Information Early in the Process

Throughout the Process Rule, there are many provisions that reference an Advance Notice of Proposed Rulemaking (ANOPR) as a step in the pre-NOPR process. Congress, however, eliminated the statutory requirement that DOE publish an ANOPR in rulemakings to establish or amend energy conservation standards when it enacted EISA.

DOE emphasizes that it highly values public input early in the rulemaking process. Such early input assists DOE in determining whether new or amended standards are necessary, determining the scope of a particular rulemaking, gaining an understanding of the current market and current technologies, and identifying potential issues with DOE's analyses. So, even though DOE no longer has an obligation to issue an ANOPR, DOE may continue to use the ANOPR and other alternative mechanisms to receive early input and supplemental information from stakeholders. Regarding alternative mechanisms to receive early input, DOE routinely provides early opportunities for public input through Framework and Preliminary Analysis documents, Notices of Data Availability, and RFIs. DOE welcomes as much participation from as many stakeholders as possible in the pre-NOPR stage of its rulemakings to raise issues, provide data, and critique DOE's technical analyses, when stakeholders determine that the need exists.

In November 2010, DOE announced certain changes on its website intended to improve its rulemaking process in appropriate circumstances. (See *https://energy.gov/gc/articles/doe-announces-changes-energy-conservation-standards-process.*) One of these potential changes was to, in appropriate circumstances, eliminate these preliminary steps in favor of issuing a proposed rule for public comment as the first phase of the rulemaking process. The 2010 announcement provided some examples where DOE might issue a NOPR directly including: (1) Instances where the economic and technological data are well known and understood; (2) instances where the industry has experienced little change since the last rulemaking; and (3) instances where the product being regulated has a long history of rulemaking so it is anticipated that there is little new data to collect. Another example could be where DOE determined that there was a time-sensitivity in issuing the rulemaking.

DOE received comments in response to its regulatory reform RFI that DOE should not eliminate these early steps, and that the circumstances enumerated by DOE where it may be appropriate to directly issue a NOPR are, instead, indicators that insufficient time has elapsed since the promulgation of a prior standard to begin work on a new standard. In such cases, the impacts of the previous standard have not yet had sufficient time to materialize so that DOE could analyze them in determining whether to issue a new standard. These commenters cautioned that DOE should not rush to issue a proposed rule, but should instead allow more time to elapse so that the impacts of the previous standard can be properly evaluated in the pre-rule documents DOE typically issues at the start of the rulemaking process. DOE also received comment suggesting that DOE amend the Process Rule to require retrospective review of current standards prior to beginning work on a new standard, to determine if the prior standard has achieved the anticipated energy savings and costs. Commenters also suggested that DOE provide advanced notice of planned data collection activities to allow parties to contribute.

Request for comment: DOE seeks comment on whether the Process Rule should be revised to eliminate references to mandatory use of an ANOPR prior to issuing a proposed rule, but maintain the ANOPR and/or include any of the alternative pre-rule steps discussed above. The alternative pre-rule steps could provide an alternate means of achieving Process Rule objectives including the provision of early input from stakeholders; increasing predictability of the rulemaking timetable because regulated entities could count on these steps being taken; and eliminating problematic design options early in the process, conducting a thorough analysis of impacts, and using transparent and robust analytical methods, because regulated entities and other stakeholders would have more opportunity early in the process to analyze and question DOE's data and analytical methods. DOE could also modify the process rule to incorporate greater use of these additional data gathering tools without eliminating the ANOPR provisions. Additionally, DOE requests comment on whether, and if so how, DOE should perform a retrospective review of current standards and associated costs and benefits as part of any pre-rule process.

D. Application of the Process Rule to Commercial Equipment

When it was originally promulgated in 1975, EPCA established a Federal program consisting of test procedures, labeling, and energy conservation standards for covered consumer products. Subsequent amendments to EPCA included provisions for the establishment of energy conservation standards for certain types of commercial equipment. For example, the Energy Policy Act of 1992 (EPACT 1992) expanded the coverage of the standards program to include certain

commercial and industrial equipment, including commercial heating and air-conditioning equipment, water heaters, certain incandescent and fluorescent lamps, and electric motors. (Energy Policy Act of 1992, Pub. L. 102–486 (1992)) EPACT 1992 also called for, among other things, determination analyses for small electric motors, high-intensity discharge lamps, and distribution transformers.

By its terms (and specifically by its title), the Process Rule is applicable only to consumer products. DOE has routinely followed the procedures set forth in the rule when establishing standards for commercial equipment, however, as there is no evident reason why DOE would want to use different procedures when establishing standards for such equipment.

Request for comment: Should DOE amend the Process Rule to clarify that it is equally applicable to the consideration of standards for commercial equipment and to recognize DOE's current practice in applying the requirements of the process rule to commercial equipment? What would be the advantages and disadvantages of applying the Process Rule criteria to commercial equipment? Such a revision would help to ensure that Process Rule objectives are also achieved in the consideration of whether to develop or amend standards for commercial equipment.

E. Use of Industry Standards in DOE Test Procedures

In the development of DOE test procedures, DOE routinely considers the test methods established in industry standards and often adopts such standards as the DOE test method but has chosen in the past to alter these standards for a variety of products and equipment. DOE has asserted a number of reasons for the modifications, such as to increase repeatability and reproducibility of the test method or because an industry test method provides, in DOE's view, incomplete information required for testing.

DOE received comments in response to its regulatory reform RFI on the use of industry standards in DOE test procedures. Specifically, commenters requested that DOE consider using the industry standards, without modification, as the DOE test procedure. This approach could lead to process efficiencies and ease the test burden on manufacturers. DOE has also requested comment on this approach in recent RFIs for test procedures specific to a given product, such as small electric motors (82 FR 35468, July 31, 2017) and General Service Fluorescent Lamps, General Service Incandescent Lamps, Incandescent Reflector Lamps (82 FR 37031; Aug. 8, 2017).

Request for comment: DOE seeks comment on whether to modify the Process Rule to specify under what circumstances DOE would consider using the industry standard, without modification, as the DOE test procedure for a given product or equipment type. For example, DOE could consider adopting the industry standard whenever the industry test method meets the EPCA requirements of being reasonably designed to produce test results that measure energy efficiency, energy use, water use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and of being not unduly burdensome to conduct, and whenever any benefits to using modified test methods are outweighed by the increased burden on manufacturers resulting from potential changes to the industry test method. Such a revision could achieve the Process Rule objective of increasing the use of outside technical expertise because DOE would focus primarily on the standard developed by industry, and any changes to that standard would occur only where the benefits outweighed the burdens on manufacturers.

F. Timing of the Issuance of DOE Test Procedures; Certification, Compliance and Enforcement; and Standards Rulemakings

In response to DOE's regulatory reform RFI, commenters emphasized that DOE should follow the Process Rule, in particular with regard to the timing of the issuance of final test procedures and the commencement of a standards rulemaking. The Process Rule provides that final, modified test procedures will be issued prior to the notice of proposed rulemaking (NOPR) on proposed standards. However, DOE has argued in some rulemakings that it was unable to meet this requirement because, for example, DOE has not had the resources to produce test procedures on a schedule to meet the Process Rule schedule requirement. In other instances, DOE has stated that it lacked the technical information and data it needs to complete a given test procedure on this timeline. There have also been some instances where a test procedure has been finalized, but new data emerge during the standards rulemaking showing the finalized test procedure to be insufficient. Commenters on DOE's regulatory reform RFI argue, however, that these reasons counsel that DOE should, instead of rushing to complete a standards rulemaking, take the time and resources needed to gather the necessary technical information and develop the appropriate test procedure prior to commencing the standards rulemaking. Commenters have also asserted that it is necessary to finalize the test procedure before beginning work on a standards rulemaking to ensure that the effects of the test procedure on compliance with the standard can be analyzed, and to ensure that commenters can provide effective comments on both proposed test procedures and standards rules.

Request for comment: DOE seeks comment on whether the provisions of the Process Rule regarding the issuance of a final test procedure rule before issuing a proposed standards rule should be amended to further ensure that the Department follows this process in developing test procedures and standards. For example, provisions could be added regarding DOE's development of a schedule for considering whether to amend a particular standard, and that schedule could include consideration of any test procedure changes that would result in the finalization of any changes prior to issuance of the proposed standards rule. Such a revision could achieve the Process Rule objectives of providing for early input from stakeholders, because stakeholder input on the test procedure would be fully developed prior to issuance of any proposed standard. The objective of increasing predictability of the rulemaking timetable could also be achieved through such a revision.

DOE also issues certification, compliance, and enforcement regulations for all product categories. These rules are issued to ensure consistency in certifying that the residential, commercial and industrial equipment meet DOE's energy conservation standards and that they deliver the expected energy and cost savings. DOE has in the past issued the certification, compliance, and enforcement rulemakings for groups of product categories in one rulemaking as opposed to individual product categories in separate rulemakings. These rules establish the frequency of reporting of certification data to DOE as well as verifying the testing method, testing data, sample size, etc.

Request for comment: DOE seeks comment on whether any new or amended certification, compliance, and enforcement rulemaking should be proposed and finalized at the same time as the energy efficiency standards so that the agency can consider the full compliance costs when choosing the

energy efficiency standard levels. DOE also seeks comment on how it could incorporate any potential cost or benefit impacts of the test procedure requirements in the decision making for the energy efficiency standard levels.

G. Improvements to DOE's Analyses

Commenters on DOE's regulatory reform RFI suggested various ways to improve the analytical methods described in the Process Rule, such as enhancing the analysis of standards for employment impacts and the cumulative regulatory burden (*e.g.,* providing for the development of guidance on including cumulative regulatory costs in analysis), the consideration of repair versus replacement dynamics, and improving discount rates. Other commenters suggested simplifying analytical processes and models to improve transparency.

Request for comment: DOE seeks more specificity in the ways in which the Process Rule could be amended to improve DOE's analyses and models, and to achieve burden reduction and increased transparency for regulated entities and the public. DOE seeks comment on how to make the analysis and models more accessible to the public by including improved instructions, user manuals, plain language descriptions, online tutorials, or other means. DOE also seeks comment on increasing the accuracy of the projections made within the analysis. Proposals should be geared to achieving Process Rule objectives such as increasing the use of outside technical expertise; eliminating problematic design options early in the process; conducting a thorough analysis of impacts (including social benefits and costs, distribution of costs, projection of technology progress and the associated price forecasts); and using transparent and robust analytical methods.

H. Other Issues

DOE also seek comment on topics not addressed in the current Process Rule and whether the Process Rule should be amended to address these topics.

Should DOE consider adding to the Process Rule criteria for ''no amended standards'' determinations when supported by data and when small energy savings require significant upfront cost to achieve?

Should DOE consider adding to the Process Rule criteria for consideration of voluntary, non-regulatory, and market-based alternatives to standards-setting?

Should DOE consider adding to the Process Rule criteria for consideration of establishing for each covered product and equipment a baseline for energy savings that qualify as not significant and thus rendering revised energy conservation standards not economically justified?

Should DOE make its compliance with the Process Rule mandatory?

DOE seeks comments and information concerning the issue areas identified above, as well as any other aspects of the Process Rule that commenters believe can be improved. The Department notes that this RFI is issued solely for information and program-planning purposes. While responses to this RFI do not bind DOE to any further actions related to the response, all submissions will be made publically available on *www.regulations.gov.*

Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of this document.

Issued in Washington, DC, on December 5, 2017.

Daniel R. Simmons,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2017–27066 Filed 12–15–17; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0589; A–1–FRL–9972–21-Region 1]

Air Plan Approval; VT; Nonattainment New Source Review and Prevention of Significant Deterioration Permit Program Revisions; Infrastructure Requirements for National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve several different revisions to the State Implementation Plan (SIP) submitted to EPA by the Vermont Department of Environmental Conservation (VT DEC). On May 23, 2017, Vermont submitted revisions to EPA satisfying the VT DEC's earlier commitment to adopt and submit revisions that meet certain requirements of the federal Prevention of Significant Deterioration (PSD) air permit program. Vermont's submission also included revisions relating to the federal nonattainment new source review (NNSR) permit program. This action proposes to approve those revisions and also proposes to fully approve certain of Vermont's infrastructure SIPs (ISIPs), which were conditionally approved by EPA on June 27, 2017. Additionally, EPA is proposing to approve several other minor regulatory changes to the SIP submitted by VT DEC on May 23, 2017. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before January 17, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0589 at *http://www.regulations.gov,* or via email to *wortman.eric@epa.gov.* For comments submitted at *Regulations.gov,*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Wortman, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912, phone number (617) 918–1624, fax number (617) 918–0624, email *wortman.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Vermont's May 23, 2017 SIP Submittal Addressing EPA's June 27, 2017 Conditional Approval Regarding PSD Elements of Infrastructure SIPs

A. What is the background information for EPA's June 27, 2017 conditional approval?

On June 27, 2017, EPA published a final conditional approval of certain elements of Vermont's ISIPs. *See* 82 FR 29005. That conditional approval identified two provisions required under the federal PSD permit program regulations that were not included in the State's ISIPs submittal. In a letter dated November 21, 2016, the VT DEC committed to revising its PSD permit program regulations to address the identified issues and submit the revised regulations to EPA for approval no later than one year after the effective date of EPA's final action conditionally approving the ISIPs. The conditional approval was part of EPA's June 27, 2017 final action on the VT DEC's ISIP submittals for the 1997 fine particulate matter ($PM_{2.5}$), 1997 ozone, 2006 $PM_{2.5}$, 2008 Lead, 2008 ozone, 2010 nitrogen dioxide (NO_2), and 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). The VT DEC submitted the revised PSD permit program regulations for our full approval on May 23, 2017.

B. What is a conditional approval?

Under section 110(k)(4) of the CAA, EPA may conditionally approve a plan based on a commitment from the State to adopt specific enforceable measures by a date certain no later than one year from the effective date of final conditional approval. If EPA subsequently determines that the State has met its commitment, EPA publishes a document in the **Federal Register** notifying the public that EPA is converting the conditional approval to a full approval.

However, if the State fails to meet its commitment in a timely manner, then the conditional approval automatically converts to a disapproval by operation of law without further action required by EPA. If that were to occur, EPA would then notify the State by a letter. At that time, the conditionally approved SIP revisions would not be part of the State's approved SIP. EPA subsequently would publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a disapproval.

EPA's June 27, 2017 conditional approval required the VT DEC to submit revised regulations that address two separate provisions of EPA's PSD permit program regulations that were not included in Vermont's approved SIP. To address the conditional approval, on May 23, 2017, the VT DEC submitted regulatory revisions for approval into the State's SIP. The revisions addressed the following federal PSD requirements:

- 40 CFR 51.166(b)(2)(ii), which requires nitrogen oxides (NO_X) and volatile organic compounds (VOC) emissions to be included as precursors to ozone in defining a significant increase in emissions from a source of air contaminants; and
- 40 CFR 51.166, which provides a methodology for determining the amount of PSD increment available to a new or modified major source.

C. Were the terms of the June 27, 2017 conditional approval met?

On December 15, 2016, VT DEC revised the Vermont Air Pollution Control Regulations (APCR) to address the two provisions identified in EPA's June 27, 2017 conditional approval. Specifically, the definition of ''significant'' in APCR § 5–101(80) was revised to define the significant emissions rate increase for ozone as 40 tons or greater of either VOCs or NO_X as ozone precursors. In addition, VT DEC revised APCR §§ 5–502(4)(c) and 5–502(5)(a) and (b) to require that PSD increment reviews and the determination of remaining PSD increment be conducted or determined in accordance with the applicable regulations at 40 CFR 51.166. EPA has determined that the revisions made to the Vermont APCR are consistent with the underlying federal PSD regulations in 40 CFR part 51.

As noted previously, on May 23, 2017, the VT DEC submitted to EPA regulatory revisions to address the two provisions identified in the June 27, 2017 conditional approval. EPA has reviewed VT DEC's regulatory revisions and found they meet the terms of the June 27, 2017 conditional approval. Accordingly, EPA is proposing to convert the June 27, 2017 conditional approval to a full approval.

II. Proposed Approval of Vermont's May 23, 2017 SIP Submittal Revising Regulations for NNSR and PSD

The VT DEC's May 23, 2017 submittal also requested that the requirements in Vermont's NNSR and PSD permit program at APCR §§ 5–501(9) and 5–502(9) be added to the Vermont SIP. The provision at § 5–501(9) clarifies that no action under § 5–501 relieves any person from complying with any other requirements of local, state, or federal law. This statement provides general information for the public and regulated community regarding applicable regulations and is appropriate for addition to the Vermont SIP. APCR § 5–502(9) requires an alternative site analysis to be conducted when: (1) A source or modification that is major is proposed to be constructed in a non-attainment area; or (2) a source or modification is major for ozone and/or precursors to ozone. This provision is consistent with NNSR permit program requirements in section 173(a)(5) of the CAA and the additional requirements for states in the ozone transport region (OTR), such as Vermont, outlined in CAA section 184.[1] Therefore, EPA is proposing this provision is appropriate for inclusion in the Vermont SIP.

III. Proposed Approval of Vermont's May 23, 2017 SIP Submittal Revising Prohibition Regulations on Particulate Matter

VT DEC submitted revisions to APCR §§ 5–231(4) and (5) as part of its May 23, 2017 SIP submittal. APCR § 5–231(4) was revised to prohibit a process operation to operate without taking reasonable precautions to prevent particulate matter from becoming airborne. APCR § 5–231(5) was revised to update and replace the term ''Asphalt Concrete Plant'' with the more commonly used term ''Hot Mix Asphalt Plant.'' EPA has reviewed these revisions and is proposing to approve them into the Vermont SIP. The revised regulations are no less stringent than the previous SIP approved versions and thus will not interfere with any applicable requirement concerning

[1] CAA section 184 details specific requirements for a group of states (and the District of Columbia) that make up the OTR. States in the OTR are required to mandate a certain level of emissions control for the pollutants that form ozone, even if the areas in the state meet the ozone standards. Thus, VT DEC is required to treat precursors to ozone as a nonattainment pollutant even though the State is designated attainment for the ozone NAAQS.

attainment and reasonable further progress, or any other applicable requirement of the CAA, in accordance with section 110(l) of the CAA.

IV. Proposed Approval of Vermont's May 23, 2017 SIP Submittal Revising Work Practice Standards for Wood Furniture Manufacturers

In the May 23, 2017 SIP package, VT DEC submitted revisions to the work practice standards for wood furniture manufacturing operations at APCR § 5–253.16(d)(8). The provision was amended to limit the use of conventional air spray guns to apply finishing materials only when all emissions from the finishing application station are routed to a functioning control device. The revised provision is consistent with the corresponding federal requirement at 40 CFR 63.803(h) in the National Emission Standards for Hazardous Air Pollutants for Wood Furniture Manufacturing Operations at 40 CFR part 63, subpart JJ. The federal requirement at 40 CFR 63.803(h) was revised on November 21, 2011 (76 FR 72050) and Vermont updated its regulations at APCR § 5–253.16(d)(8) to provide consistency with the federal regulations. EPA has analyzed the revisions to APCR § 5–253.16(d)(8) and determined that the requirements satisfy the Reasonably Available Control Technology (RACT) requirements recommended by the Control Techniques Guidelines (CTG) for wood manufacturing operations.[2] Because the revisions are more stringent than the requirements in the previously approved SIP, VT DEC has satisfied the approval requirements contained in section 110(l) of the CAA. Therefore, EPA is proposing to approve this requirement into the Vermont SIP.

V. Proposed Approval of Vermont's May 23, 2017 SIP Submittal Revising Approved Methods for Sampling and Testing of Sources

Vermont's May 23, 2017 submittal included minor revisions made to APCR § 5–404, Methods for Sampling and Testing of Sources, that provided additional testing options and requirements for sources required to perform stack testing. Specifically, the revision adds 40 CFR part 51, Appendix M, as a testing option and requires that all other methods be approved by the Air Pollution Control Officer and EPA, as opposed to just the Air Pollution Control Officer. We have reviewed these revisions and are proposing to approve them into the Vermont SIP. These revisions are consistent with CAA section 110(l).

VI. Proposed Action

EPA's review of Vermont's May 23, 2017 submittal indicates that the submittal satisfies the requirements of the CAA and is appropriate for inclusion into the VT SIP. EPA therefore is proposing to approve the Vermont SIP revisions discussed in this action. Also, as a result of our proposed approval of the PSD permitting revisions discussed in section I above, EPA is also proposing to convert the June 27, 2017 conditional approval of Vermont's ISIPs to a full approval. EPA is soliciting public comments on the issues discussed in this action or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VII. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference into the Vermont SIP the revisions to Vermont's APCR Chapter 5 as described in this document. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 6, 2017.

Ken Moraff,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–27215 Filed 12–15–17; 8:45 am]

BILLING CODE 6560–50–P

[2] See CTG for Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations. Document ID: EPA–453/R–96–007. April, 1996.

Notices

Federal Register

Vol. 82, No. 241

Monday, December 18, 2017

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

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) The accuracy of the burden estimates; (b) ways to enhance the quality, utility, and clarity of the information collected; and (c) 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.

DATES: Submit comments on or before February 16, 2018.

FOR FURTHER INFORMATION CONTACT: Sylvia Joyner, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development, Room 2.07C, RRB, Washington, DC 20523, (202) 712–5007 or via email *sjoyner@usaid.gov.*

Comments: Send comments via email to *jltaylor@usaid.gov,* U.S. Agency for International Development, Office of Acquisition and Assistance, 1300 Pennsylvania Avenue NW, SA–44 Room 867–C, Washington, DC 20523, 202–567–4673.

SUPPLEMENTARY INFORMATION:

OMB No.:

Form No.: AID 309–2.

Title: Offeror Information for Personal Services Contracts With Individuals.

Type of Review: Revision of a currently approved collection.

Purpose: United States Agency for International Development must collect information for reporting purposes to Congress and Office of Acquisition and Assistance Contract Administration. This form will be used to collect information to determine the most qualified person for a position without gathering information that may lead to discrimination or bias towards or gathered from applicant.

Annual Reporting Burden:

U.S. Respondents: 12,684.

Total annual U.S. responses: 12,684.

Total annual hours requested: 12,684 hours.

The burden estimate is based on the average number of PSC awards made over the past three years, which is 604. The average number of offerors received for each solicitation is 21. Therefore, the total number of offers received is 604 × 21 = 12,684. The amount of time estimated to complete the form is one hour.

Dated: November 16, 2017.

Mark Walther,

Acting Senior Procurement Executive.

[FR Doc. 2017–27163 Filed 12–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request approval to revise and extend a currently approved information collection, the Milk and Milk Products Surveys. Revision to burden hours may be needed due to changes in the size of the target population, sample design, and/or questionnaire length.

DATES: Comments on this notice must be received by February 16, 2018 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0020, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Efax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Milk and Milk Products Surveys.

OMB Control Number: 0535–0020.

Expiration Date of Approval: July 31, 2018.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. The Milk and Milk Products Surveys obtain basic agricultural statistics on milk production and manufactured dairy products from farmers and processing plants throughout the nation. Data are gathered for milk production, dairy products, evaporated and condensed milk, manufactured dry milk, and manufactured whey products. Milk production and manufactured dairy products statistics are used by the U.S. Department of Agriculture (USDA) to help administer federal programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. Only minor changes are

planned for the questionnaires and sample sizes. The Milk Production Survey will continue to be conducted quarterly (January, April, July, and October) and monthly estimates for the non-quarterly months will still be published for the total number of dairy cows, the number of cows milked, and the total milk produced. Estimates for the non-survey months will be generated by using a combination of administrative data, regression modeling, and historic data. In April 2012 NASS discontinued the collection of Dairy Product Prices. This data is now collected by the Agricultural Marketing Service (AMS) in compliance with the Mandatory Price Reporting Act of 2010, and the amended section 273(d) of the Agricultural Marketing Act of 1946.

Authority: Voluntary dairy information reporting is conducted under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276), which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Mandatory dairy product information reporting is based on the Agricultural Marketing Act of 1946, as amended by the Dairy Market Enhancement Act of 2000 and the Farm Security and Rural Development Act of 2002 (U.S.C. 1637–1637b). This program requires each manufacturer to report to USDA the price, quantity, and moisture content of dairy products sold and each entity storing dairy products to report information on the quantity of dairy products stored. Any manufacturer that processes, markets, or stores less than 1,000,000 pounds of dairy products per year is exempt. USDA is required to maintain information, statistics, or documents obtained under these Acts in a manner that ensures that confidentiality is preserved regarding the identity of persons and proprietary business information, subject to verification by the Agricultural Marketing Service (AMS) under Public Law 106–532. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response. This average is based on the 7 different surveys in the information collection: 2 monthly, 4 quarterly, and 1 annual. The estimated total number of responses is 63,100 annually, with an average annual frequency of 4.44 responses per respondent. NASS will continue to use cover letters to explain the importance and uses of this data series along with how the respondent can access and report their data using the secure internet connection that NASS is using.

Respondents: Farms and businesses.

Estimated Number of Respondents: 14,200.

Estimated Total Annual Burden on Respondents: 11,000 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

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

Signed at Washington, DC, December 4, 2017.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2017–27177 Filed 12–15–17; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of monthly planning meetings.

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 planning meeting of the New Jersey State Advisory Committee to the Commission will convene by conference call, on Friday, January 19, 2018 at 11:30 a.m. (EST). The purpose of the meeting is project planning so that members can begin discussing potential topics for its civil rights project.

DATES: Friday, January 19, 2018, at 11:30 a.m. (EST).

Public Call-In Information: Conference call number: 1–877–718–5106 and conference call ID: 4749623.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–877–718–5106 and conference call ID: 4749623. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–888–364–3109 and providing the operator with the toll-free conference call number: 1–877–718–5106 and conference call ID: 4749623.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=240;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,*

or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Friday, January 19, 2018 at 11:30 a.m.

I. Welcome and Introductions
Rollcall
II. Project Planning
Civil Rights Project Discussions
III. Other Business
IV. Open Comment
V. Adjournment

Dated: December 12, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–27130 Filed 12–15–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon 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 Oregon Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Tuesday, January 9, 2018. The purpose of the meeting is for the Committee to continue planning to collect testimony focused on human trafficking in Oregon.

DATES: The meeting will be held on Tuesday, January 9, 2018, at 1:00 p.m. PT.

Public Call Information:
Dial: 877–548–7915.
Conference ID: 1012859.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–548–7915, conference ID number: 1012859. 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 1–800–877–8339 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 Ana Victoria Fortes at *afortes@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=270.* 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 website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approve Minutes From December 5, 2017
III. Discussion Briefing Agenda
a. Speakers
b. Panel Categories
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: December 12, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–27134 Filed 12–15–17; 8:45 am]

BILLING CODE 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 determination of sales at less than fair value and affirmative final determination of critical circumstances (Secretariat file number: USA–CDA–2017–1904–03).

SUMMARY: A Request for Panel Review was filed on behalf of the Government of Canada, the Government of Ontario, the Government of Québec, British Columbia Lumber Trade Council (''BCLTC''), Conseil de l'Industrie forestiere du Québec (''CIFQ''), Ontario Forest Industries Association (''OFIA''), Canfor Corporation (''Canfor''), 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 December 5, 2017, pursuant to NAFTA Article 1904. Panel Review was requested of the Department of Commerce's final determination regarding Certain Softwood Lumber Products from Canada. The final determination was published in the **Federal Register** on November 8, 2017 (82 FR 51806). The NAFTA Secretariat has assigned case number USA–CDA–2017–1904–03 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: 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 January 4, 2018);

(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 January 19, 2018); 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: December 12, 2017.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2017–27116 Filed 12–15–17; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF855

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Gulf of Mexico Coral Habitat Management Areas

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); request for comments.

SUMMARY: The NMFS Southeast Region, in collaboration with the Gulf of Mexico Fishery Management Council (Council), intends to prepare a DEIS to describe and analyze management alternatives to be included in Amendment 9 to the Fishery Management Plan (FMP) for the Coral and Coral Reef Resources of the Gulf of Mexico: Coral Habitat Areas Considered for Management in the Gulf of Mexico (Amendment 9). Amendment 9 will consider alternatives that would modify fishing regulations within the existing habitat areas of particular concern (HAPC) boundary of Pulley Ridge; establish new areas for HAPC status in the Gulf of Mexico (Gulf) that may include associated fishing regulations; and prohibit dredge fishing in all HAPCs that are managed with fishing regulations. These decisions would help conserve Gulf coral resources and essential fish habitat to maintain suitable marine fishery habitat to support sustainable fisheries. The purpose of this NOI is to inform the public of upcoming opportunities to provide additional comments on the scope of issues to be addressed in the DEIS, as specified in this notice.

DATES: Written comments on the scope of issues to be addressed in the DEIS must be received by NMFS by January 17, 2018.

ADDRESSES: You may submit comments on Amendment 9 identified by ''NOAA–NMFS–2017–0146'' by either of the following methods:

• *Electronic submissions:* Submit all electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0146,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit all written comments to Lauren Waters, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), 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).

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *lauren.waters@noaa.gov.*

SUPPLEMENTARY INFORMATION: Over 100 species of coral are included in the FMP for the Coral and Coral Reef Resources of the Gulf. In 2013, the Council held a workshop to discuss how corals may be affected by Gulf fisheries. One of the workshop recommendations was for the Council to consider additional habitat protections for new and existing coral areas in the Gulf. While designating particular sites within existing coral essential fish habitat (EFH) as HAPCs does not provide any additional specific protections to designated areas, it can be used to focus attention on those areas for future Council actions and when NMFS conducts required EFH consultations on Federal actions that may adversely affect the habitat.

In December 2014, the Council convened their Coral Working Group to discuss which areas in the Gulf may warrant specific protection for corals. The group identified 47 areas, including existing HAPCs, that may be in need of new or revised protection and recommended that new areas also be designated as HAPCs. In May 2015, the Council's Special Coral Scientific and Statistical Committee (SSC) and Coral Advisory Panel (AP) reviewed these areas along with members of the shrimp fishing community and recommended that the boundaries of some of the areas be refined based on available fishing information. In August 2016, the Council's Coral SSC, Coral AP, Shrimp AP, as well as Council invitees including royal red shrimp fishermen and bottom longline fishermen, provided input to the Council and recommended that 14 areas be designated as HAPCs with accompanying fishing regulations and 8 areas be designated without accompanying fishing regulations. Based on this input, the Council began developing Amendment 9.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze alternatives to address the management needs described above including the ''no action'' alternative. The Amendment 9 DEIS will describe and analyze the modification of fishing regulations within the existing Pulley Ridge HAPC boundary, the establishment of 22 new HAPCs, and the exclusion of dredge fishing in all HAPCs that are managed with fishing regulations.

In accordance with NOAA's Administrative Order 216–6A, accompanying National Environmental Protection Act (NEPA) Procedures (companion manual), and the Scoping Process, NMFS, in collaboration with the Council, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. The public is invited to provide written comments on the preliminary issues, which are identified as actions and alternatives in the Amendment 9 draft public hearing paper and action guide. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the DEIS. A copy of the Amendment 9 draft public hearing paper and action guide are available at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/coral/Coral9/Coral9index.html.* Additionally, public comments will be solicited at public hearings held by the Council, which are planned for spring 2018 and will be announced in the **Federal Register**.

After the DEIS associated with Amendment 9 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability (NOA) of the DEIS for public comment in the **Federal Register**. The DEIS NOA will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the NEPA (40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6A regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before the Council votes to submit Amendment 9 to NMFS for Secretarial review and implementation under the Magnuson-Stevens Act. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment. During Secretarial review, NMFS will also file the FEIS with the EPA and the EPA will publish an NOA for the FEIS in the **Federal Register**.

NMFS will announce, through a notice published in the **Federal Register**, all public comment periods on the final amendment, the proposed implementing regulations, and the availability of the associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the FEIS, prior to final agency action.

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

Dated: December 12, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–27142 Filed 12–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB); Notice of a Meeting

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the NOAA Science Advisory Board (SAB). The members will discuss issues outlined in the section on Matters to be considered.

Time and Date: The meeting will be held Tuesday, February 20, 2018 from 2:00 to 4:00 p.m. Eastern Standard Time (EST). These times and the agenda topic described below are subject to change. For the latest agenda please refer to the SAB website: *http://sab.noaa.gov/SABMeetings.aspx*.

ADDRESSES: Public access is available at: NOAA, SSMC 3 Room 11836, 1315 East-West Highway, Silver Spring, MD. Members of the public may participate virtually by registering at: *https://attendee.gotowebinar.com/register/2013943949799846914.*

SUPPLEMENTARY INFORMATION: The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Status: The meeting will be open to public participation with a 10-minute public comment period at 3:45–3:55 p.m. EST. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two (2) minutes. Written comments for the meeting should be received in the SAB Executive Director's Office by February 13, 2018 to provide sufficient time for SAB review. Written comments received after by the SAB Executive Director after these dates will be distributed to the SAB, but may not be reviewed prior to the meeting date.

Special Accommodations: This meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed to the Executive Director no later than 12 p.m. on February 13th.

Matters To Be Considered: The meeting will include discussions on the SAB biennial work plan. Meeting materials, including work products will be made available on the SAB website: *http://sab.noaa.gov/SABMeetings.aspx*.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 301–734–1156; *Email: Cynthia.Decker@noaa.gov;* or visit the SAB website at *http://sab.noaa.gov/SABMeetings.aspx.*

Dated: December 7, 2017.

David Holst,

Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–27185 Filed 12–15–17; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0021; OMB Control Number 0704–0214]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Part 217, Special Contracting Methods

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through February 28, 2018. DoD proposes that OMB extend its approval for three additional years.

DATES: DoD will consider all comments received by February 16, 2018.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0214, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0214 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, 571–372–6093. The information collection requirements addressed in this notice are available electronically on the internet at: *http://www.acq.osd.mil/dpap/dfars/index.htm.* Paper copies are available from Ms. Carrie Moore, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 217, Special Contracting Methods, and related clauses at 252.217; OMB Control Number 0704–0214.

Needs and Uses: DFARS Part 217 prescribes policies and procedures for acquiring supplies and services by special contracting methods. Contracting officers use the required information as follows:

Contracting officers use the information required by DFARS 217.7004(a) where offerors shall state prices for the new items being acquired both with and without any exchange (trade-in allowance).

Contracting officers use the information from 217.7404–3(b), to evaluate a contractor's ''qualifying proposal'' in accordance with the definitization schedule. This subpart allows the contracting officer to require receipt of a qualifying proposal containing sufficient information for DoD to complete a meaningful analyses and audit of the information in the proposal, and any other information that the contracting officer has determined DoD needs to review in connection with the contract.

Contracting officers use the information from 217.7505(d), where the offeror submits with its proposal, price and quantity data on any Government orders for the replenishment part issued within the most recent 12 months.

The clause at DFARS 252.217–7012 is used in master agreements for repair and alteration of vessels. Contracting officers use the information required by paragraph (d) of the clause to determine that the contractor is adequately insured. This requirement supports prudent business practice, because it limits the Government's liability as a related party to the work the contractor performs. Contracting officers use the information required by paragraphs (f) and (g) of the clause to keep informed of lost or damaged property for which the Government is liable, and to determine the appropriate course of action for replacement or repair of the property.

Contracting officers use the information required by the provision at DFARS 252.217–7026 to identify the apparently successful offeror's sources of supply so that competition can be enhanced in future acquisitions. This collection complies with 10 U.S.C. 2384, Supplies: Identification of Suppliers and Sources, which requires the contractor to identify the actual manufacturer or all sources of supply for supplies furnished under contract to DoD.

Contracting officers use the information required by the clause at 252.217–7028 to determine the extent of ''over and above'' work before the work commences. This requirement allows the Government to review the need for pending work before the contractor begins performance.

Affected Public: Businesses or other for-profit and not-for- profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 5,859.

Responses per Respondent: 5.

Annual Responses: 29,294.

Average Burden per Response: 8.

Annual Burden Hours: 234,355.

Summary of Information Collection

DFARS 217.7004, Exchange of Personal Property—Paragraph (a) of this section requires that solicitations which contemplate exchange (trade-in) of personal property and application of the exchange allowance to the acquisition of similar property (see 40 U.S.C. 481), shall include a request for offerors to state prices for the new items being acquired both with and without any exchange (trade-in allowance).

DFARS 217.7404–3, Undefinitized Contract Actions—Paragraph (b) of this section requires contractors to submit a ''qualifying proposal'' in accordance with the definitization schedule provided in the contract. A qualifying proposal is defined in DFARS 217.7401(c) as a proposal containing sufficient information for the DoD to do complete and meaningful analyses and audits of the information in the proposal, and any other information that the contracting officer has determined DoD needs to review in connection with the contract.

DFARS 217.7505, Acquisition of Replenishment Parts—Paragraph (d) of this section permits contracting officers to include in sole-source solicitations that include acquisition of replenishment parts, a provision requiring that the offeror supply with its proposal, price and quantity data on any Government orders for the replenishment part issued within the most recent 12 months (see 10 U.S.C. 2452 note, Spare Parts and Replacement Equipment, Publication of Regulations).

DFARS 252.217–7012, Liability and Insurance—Paragraph (d)(3) of this clause requires the contractor to show evidence of casualty, accident, and liability insurance under a master agreement for vessel repair and alteration.

DFARS 252.217–7012—Paragraphs (f) and (g) of the require the contractor to notify the contracting officer of any property loss or damage for which the Government is liable and to submit to the contracting officer a request, with supporting documentation, for reimbursement of the cost of replacement or repair.

DFARS 252.217–7026, Identification of Sources of Supply—This provision requires the apparently successful offeror to identify its sources of supply. The Government is required under 10 U.S.C. 2384 to obtain certain information on the actual manufacturer or sources of supplies it acquire.

DFARS 252.217–7028, Over and Above Work—Paragraphs (c) and (e) of this clause require the contractor to submit to the contracting officer a work request and proposal for ''over and above work'' or work discovered during the course of performing overhaul, maintenance, and repair efforts that is within the general scope of the contract, not covered by the line item(s) for the basic work under the contract, and necessary in order to satisfactorily complete the contract.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2017–27212 Filed 12–15–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Notice of Request for Information (RFI) on Identifying Opportunities To Address Barriers for Lowering the Cost and Risk of Geothermal Drilling

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for Information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) on Identifying Opportunities to Address Barriers for Lowering the Cost and Risk of Geothermal Drilling. The Office of Energy Efficiency and Renewable Energy is specifically interested in information on defining major challenges in geothermal drilling and identifying opportunities in research and development and process improvement, including opportunities to collaborate on best practices with other drilling industries.

DATES: Responses to the RFI must be received no later than 5:00 p.m. (ET) on January 22, 2018.

ADDRESSES: Interested parties are to submit comments electronically to *geothermal.comments@ee.doe.gov.* Responses must be provided as attachments to an email. Include ''Geothermal Drilling RFI'' as the subject of the email. It is recommended that attachments with file sizes exceeding 25MB be compressed (*i.e.,* zipped) to ensure message delivery. Responses must be provided as a Microsoft Word (.docx) attachment to the email, and no more than 3 pages in length, 12 point font, 1 inch margins. Only electronic responses will be accepted. The complete RFI document is located at *https://eere-exchange.energy.gov/Default.aspx#FoaId8eee00d1-af46-47ff-806e-a1c46df9b9d8.*

FOR FURTHER INFORMATION CONTACT: Question may be addressed to *geothermal.comments@ee.doe.gov.* Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: Geothermal energy has the potential to provide a significant amount of renewable electric power for the United States. Because drilling costs can account for 50% or more of the total capital cost for a geothermal power project, reducing those costs becomes one of the most important factors to realizing this potential. The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to lowering the costs and risks associated with drilling wells for geothermal development for electricity production. The Office of Energy Efficiency and Renewable Energy is seeking input in three areas: defining the major challenges, research and development opportunities, and process improvement opportunities. The RFI is available at: *https://eere-exchange.energy.gov/Default.aspx#FoaId8eee00d1-af46-47ff-806e-a1c46df9b9d8.*

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

Issued in Washington, DC, on December 12, 2017.

Susan G. Hamm,

Director, Geothermal Technologies Office.

[FR Doc. 2017–27188 Filed 12–15–17; 8:45 am]

BILLING CODE 6450–01–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: EC18–30–000.
Applicants: Mojave Solar LLC, Arizona Solar One LLC, Algonquin Power & Utilities Corp.
Description: Application for Authorization Under Section 203 of the Federal Power Act for the Disposition of Jurisdictional Facilities, et al. of Mojave Solar LLC, et al.
Filed Date: 12/8/17.
Accession Number: 20171208–5158.
Comments Due: 5 p.m. ET 12/29/17.

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

Docket Numbers: ER18–251–005.
Applicants: California Independent System Operator Corporation.
Description: Tariff Amendment: 2017–12–08 Amendment to Filing CAISO BC Hydro Data Sharing Agreement to be effective 2/15/2018.
Filed Date: 12/8/17.
Accession Number: 20171208–5133.
Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–251–006.
Applicants: California Independent System Operator Corporation.
Description: Tariff Amendment: 2017–12–11 Amendment to Pending Filing BC Hydro Data Sharing Agreement to be effective 2/15/2018.
Filed Date: 12/11/17.
Accession Number: 20171211–5057.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–283–000.
Applicants: EUI Affiliate LLC.
Description: Supplement to November 13, 2017 EUI Affiliate LLC tariff filing (Notice of Non-Material Change in Status).
Filed Date: 12/11/17.
Accession Number: 20171211–5126.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–418–000.
Applicants: EGP Stillwater Solar, LLC.
Description: § 205(d) Rate Filing: EGP Stillwater Solar, LLC SFA to be effective 11/16/2017.
Filed Date: 12/11/17.
Accession Number: 20171211–5000.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–419–000.
Applicants: EGP Stillwater Solar PV II, LLC.
Description: § 205(d) Rate Filing: EGP Stillwater Solar PV II, LLC SFA to be effective 11/16/2017.

Filed Date: 12/11/17.
Accession Number: 20171211–5001.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–420–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–12–11_Termination of SA 2673_Odell Wind_NSP E&P Agreement to be effective 12/12/2017.
Filed Date: 12/11/17.
Accession Number: 20171211–5031.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–421–000.
Applicants: Southwest Power Pool, Inc.
Description: Petition for Waiver of Tariff Provisions of Southwest Power Pool, Inc.
Filed Date: 12/8/17.
Accession Number: 20171208–5172.
Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–422–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to Service Agreement Nos. 3071 and 3072, Queue Nos. U1–059/W1–056 to be effective 8/30/2011.
Filed Date: 12/11/17.
Accession Number: 20171211–5045.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–423–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: SVP Work Performance Agreement for NRS Breaker Replacement (SA 343) to be effective 12/12/2017.
Filed Date: 12/11/17.
Accession Number: 20171211–5136.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–424–000.
Applicants: NSTAR Electric Company.
Description: § 205(d) Rate Filing: Covanta SEMASS IA to be effective 12/1/2017.
Filed Date: 12/11/17.
Accession Number: 20171211–5143.
Comments Due: 5 p.m. ET 1/2/18.

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

Docket Numbers: ES18–17–000.
Applicants: KCP&L Greater Missouri Operations Company.
Description: Application for Authorization of Issuance of Short-Term Debt Securities Under Section 204 of the Federal Power Act of KCP&L Greater Missouri Operations Company.
Filed Date: 12/11/17.
Accession Number: 20171211–5128.
Comments Due: 5 p.m. ET 1/2/18.

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

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

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

Dated: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27175 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–21–000]

WBI Energy Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on November 30, 2017, WBI Energy Transmission, Inc. (WBI Energy), 1250 West Century Avenue, Bismarck, North Dakota filed a prior notice application pursuant to sections 157.205, 157.210 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and WBI Energy's blanket certificate issued in Docket No. CP82–487–000. WBI Energy requests authorization to construct and operate Spring Creek Expansion Project. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, WBI Energy proposes to: (1) construct approximately 12 miles of 24-inch diameter steel pipeline to provide an additional connection to Northern Border Pipeline Company and add facilities at its Cherry Creek Valve Setting; (2) expand its Spring Creek Meter Station; and (3) expand its Wild Basin Meter Station in McKenzie County, North Dakota.

Any questions regarding the application should be directed to Lori Myerchin, Manager, Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, (701) 530–1563 or by email at *lori.myerchin@wbienergy.com*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties.

However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27171 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5891–009]

Deschutes Valley Water District; Notice of Revised Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Comments, Recommendations, Terms and Conditions, and Fishway Prescriptions

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

a. *Application Type:* Revised Amendment Application.

b. *Project No.:* 5891–009.

c. *Date Filed:* October 31, 2017.

d. *Applicant:* Deschutes Valley Water District (licensee).

e. *Name of Project:* Opal Springs Hydroelectric Project.

f. *Location:* The project is located on the Crooked River in Jefferson County, Oregon.

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

h. *Applicant Contact:* Edson Pugh, General Manager, Deschutes Valley Water District, 881 SW Culver Highway, Madras, Oregon 97741; telephone (541) 475–3849; email *edson@dvwd.org.*

i. *FERC Contact:* Jennifer Ambler; telephone: (202) 502–8586; email address: *jennifer.ambler@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and fishway prescriptions is 30 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website at *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, terms and conditions and fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The first page of any filing should include docket number P–5891–009.

k. *Description of Request:* On October 8, 2015, the licensee filed an application to amend its license and install fish passage facilities at the project. Public notice of the application was issued November 5, 2015. That application was placed in abeyance on December 21, 2016. The licensee's October 31, 2017 filing of its revised amendment application lifts the abeyance. Therefore, Commission staff notices the licensee's revised amendment application.

The licensee proposes to construct upstream fish passage facilities on the east bank of the dam and to modify the existing spillway to improve downstream fish passage. To accommodate the proposed modifications, the licensee would raise the project's normal maximum reservoir elevation by 3 feet and would replace the current flashboard system with a fixed wooden flashboard section along with one inflatable weir to attain the proposed higher reservoir elevation. The licensee states that the amendment is necessary to facilitate the reintroduction of steelhead trout and Chinook salmon. Revisions to the licensee's original application include a reduction in the proposed normal maximum pool elevation increase from 6 feet to 3 feet, a modified forebay elevation range for fish ladder operation, a single fish ladder exit, and the use of one gate for downstream fish passage.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application. The revised application remains a part of the original proceeding; therefore, interveners to the original proceeding need not refile intervention motions.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or FISHWAY PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, recommendations, terms and conditions, or prescriptions should relate to the proposed amendment application and fish passage operation

plan. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: December 12, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27176 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–47–000]

Alabama Municipal Electric Authority; Notice of Petition for Partial Waiver

Take notice that on December 11, 2017, pursuant to section 292.402 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations,[1] 18 CFR 292.402(2017), Alabama Municipal Electric Authority (AMEA), on behalf of itself and its participating member municipal cities (Participating Members), request a partial waiver of certain obligations imposed on AMEA and its Participating Members, through the Commission's regulations [2] implementing section 210 of the Public Regulatory Policies Act of 1978, as amended, all as more fully explained in its petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 2, 2018.

Dated: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27174 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 292.402.

[2] 18 CFR 292.303(a) and 292.303(b).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–22–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on December 1, 2017, Columbia Gas Transmission, LLC (Columbia Gas), 700 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP18–22–000 a prior notice request pursuant to sections 157.205, 157.208, and 157.216 of the Commission's regulations under the Natural Gas Act for authorization to replace two segments of its existing 10-inch-diameter bare steel natural gas pipeline Line O–731, totaling 7.64 miles, and to perform other related appurtenant activities, all located in Coshocton and Muskingum Counties, Ohio. Columbia Gas proposes to construct these facilities under authorities granted by its blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Linda Farquhar, Manager, Project Determinations and Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002, at (832) 320–56855 or by email at *linda_farquhar@transcanada.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically

should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27172 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12966–004]

Utah Board of Water Resources; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

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

a. *Type of Application:* Major Unconstructed Project.

b. *Project No.:* 12966–004.

c. *Date Filed:* May 2, 2016.

d. *Applicant:* Utah Board of Water Resources.

e. *Name of Project:* Lake Powell Pipeline Project.

f. *Location:* The proposed project would be located in Washington and Kane counties, Utah, and in Coconino and Mohave counties, Arizona. The project would occupy 449 acres of federal land managed by the Bureau of Land Management (BLM).

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

h. *Applicant Contact:* Applicant Contact: Joel Williams, Project Manager, Utah Division of Water Resources; Telephone (801) 538–7249 or *joelwilliams@utah.gov*.

i. *FERC Contact:* Jim Fargo, (202) 502–6095 or *james.fargo@ferc.gov*.

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–12966–004.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now is ready for environmental analysis.

l. The proposed 140-mile-long Lake Powell Pipeline Project would convey water from the Bureau of Reclamation's Lake Powell through a buried 69-inch diameter pipeline up to a high point within the Grand Staircase-Escalante National Monument, after which it would flow for about 87.5 miles through a series of hydroelectric turbines, ending at Sand Hollow reservoir, near St. George, Utah.

The proposed hydro facilities subject to the Federal Energy Regulatory Commission's jurisdiction under Part I of the Federal Power Act include: (1) An inline single-unit, 1-megawatt (MW) facility at Hydro Station 1 in the Grand Staircase-Escalante National Monument; (2) an inline single-unit, 1.7–MW facility at Hydro Station 2 east of Colorado City, Arizona; (3) an inline single-unit, 1–MW facility in Hildale City, Utah; (4) an inline single-unit, 1.7–MW facility above the Hurricane Cliffs forebay reservoir; (5) a 2-unit, 300–MW (150–MW each unit) hydroelectric pumped storage development at Hurricane Cliffs, with the forebay and afterbay sized to provide ten hours of continuous 300–MW output; (6) a single-unit, 35–MW conventional energy recovery generation unit built within the Hurricane Cliffs development; (7) a single-unit, 5–MW facility at the existing Sand Hollow Reservoir and (8) related transmission lines.

In its application, the applicant proposes to define the FERC-licensed hydro system to include not only the power-generating facilities noted above, but also approximately 89 miles of water delivery pipelines that connect these facilities. The Commission has not yet determined whether these water delivery pipelines will be included as part of the licensed hydro facilities. If the Commission licenses only the power generating facilities and excludes the intervening pipelines, federal land-managing agencies will be responsible for issuing rights-of-way permits for those parts of the pipelines that are located on federal lands. If the Commission determines that it should also license the intervening pipelines, federal land-managing agencies may also be permitted to file conditions under section 4(e) of the Federal Power Act for the protection and utilization of any federal reservations that the pipelines will occupy, depending on which pipeline route is selected.

In particular, the applicant proposes to use the south alternative route for the pipeline, which does not cross the Kaibab Reservation. In Scoping Document 2, Commission staff stated that the environmental impact statement for the Lake Powell Pipeline Project will include an alternative pipeline route across the Kaibab Reservation. Depending on the scope of the FERC-licensed hydro system, this alternative may or may not be subject to section 4(e) of the Federal Power Act. To cover both possibilities, Interior should provide preliminary section 4(e) conditions for the Kaibab Reservation alternative, and should also provide any proposed rights-of-way conditions for that route if those conditions would differ from the section 4(e) conditions, in the event that the Commission determines not to include the pipelines as part of the licensed Hydro System. The applicant included unsigned rights-of-way permit applications to the BLM, Bureau of Reclamation, and National Park Service in its final license application.

In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the BLM, Arizona Strip Field Office, St. George, Utah, intends to consider amending a portion of the Arizona Strip Field Office Resource Management Plan (RMP) to allow development of the Lake Powell Pipeline within the Kanab Creek Area of Critical Environmental Concern. The EIS will analyze both the proposed Lake Powell Pipeline Project and the proposed RMP amendment. The BLM

will conduct its own scoping process to solicit public comments and identify issues.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27173 Filed 12–15–17; 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: PR18–2–001.
Applicants: Acacia Natural Gas, L.L.C.
Description: Tariff filing per 284.123(b),(e)+(g): Acacia Natural Gas Filing—December 6, 2017 to be effective 12/6/2017.
Filed Date: 12/6/17.
Accession Number: 201712065111.
Comments Due: 5 p.m. ET 12/27/17.
284.123(g) Protests Due: 5 p.m. ET 12/27/17.

Docket Numbers: RP18–244–000.
Applicants: National Fuel Gas Supply Corporation.
Description: § 4(d) Rate Filing: Security Administrator to be effective 12/31/9998.
Filed Date: 12/7/17.
Accession Number: 20171207–5081.
Comments Due: 5 p.m. ET 12/19/17.

Docket Numbers: RP18–245–000.
Applicants: Empire Pipeline, Inc.
Description: § 4(d) Rate Filing: Empire Security Administrator to be effective 12/31/9998.
Filed Date: 12/7/17.
Accession Number: 20171207–5112.
Comments Due: 5 p.m. ET 12/19/17.

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: December 11, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27170 Filed 12–15–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0180; FRL–9970–45]

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) Request for Ad Hoc Expert Nominations; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is issuing this notice to announce the opportunity to provide additional nominations for experts to serve as ad hoc members for the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) reviewing physiologically-based pharmacokinetic (PBPK) modeling to address pharmacokinetic differences between and within species on six selected pesticidal active ingredients. This meeting of the FIFRA SAP, originally scheduled for October 24–27, 2017, has been postponed until 2018. New dates for this meeting will be announced in a separate notice.

DATES: The meeting will be rescheduled for 2018. The Agency will issue another announcement once the new date for the SAP meeting on PBPK modeling has been determined.

Nominations. Nominations of candidates to serve as ad hoc members of FIFRA SAP for this meeting should be provided on or before January 17, 2018. See Request for Nominations section for more detail.

Submit nominations to serve as ad hoc members of FIFRA SAP, requests for special accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Marquea D. King, DFO, Office of

Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–3626; email address: *king.marquea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Does this action apply to me?

This action is directed to the public in general. This action may be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) and FIFRA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

Request for nominations to serve as ad hoc expert members of FIFRA SAP for this meeting. As part of a broader process for developing a pool of candidates, FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of FIFRA SAP. Both U.S. citizens and permanent residents who can demonstrate they are actively seeking U.S. citizenship will be considered. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: PBPK modeling, pharmacokinetics, pharmacodynamic (PD) modeling, *in vitro* to *in vivo* extrapolation, human health risk assessment, neurotoxicity, organophosphate pesticides, pyrethroids pesticides, *N*-methyl carbamate pesticides, fungicides, acetylcholinesterase inhibition, and exposure assessment. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, email address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before January 17, 2018. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before that date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on FIFRA SAP is based on the function of the Panel and the expertise needed to address the Agency's charge to the Panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency, except EPA. Other factors considered during the selection process include availability of the potential Panel member to fully participate in the Panel's review, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on FIFRA SAP. Numerous qualified candidates are identified for each Panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the Panel.

FIFRA SAP members are subject to the provisions of 5 CFR part 2634—Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture, as supplemented by EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks, and bonds, and where applicable, sources of research support. EPA will evaluate the candidate's financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality, or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes and the final meeting report. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *https://www.epa.gov/sap* or may be obtained from the OPP Docket at *http://www.regulations.gov.*

II. Background

Purpose of FIFRA SAP

The Agency is issuing this notice to announce the opportunity to provide additional nominations for experts to serve as ad hoc members for the FIFRA SAP reviewing PBPK modeling to address pharmacokinetic differences between and within species on six selected pesticidal active ingredients. The meeting, originally scheduled for October 24–27, 2017 as announced in the **Federal Register** on June 6, 2017 (82 FR 26086) (FRL 9962–78), has been postponed until 2018. The new meeting dates will be announced once they are selected. For additional information, please visit the public docket for this meeting at *http://www.regulations.gov* (Docket number EPA–HQ–OPP–2017–0180), the FIFRA SAP website at *http://www.epa.gov/sap* or contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et. seq.*; 21 U.S.C. 301 *et seq.*

Dated: November 16, 2017.

Stanley Barone, Jr.,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 2017–27213 Filed 12–15–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1171]

Information Collection Being Reviewed by the Federal Communications Commission

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 of 1995 (PRA), 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.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 16, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC 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: 3060–1171.

Title: Commercial Advertisement Loudness Mitigation (''CALM'') Act; 73.682(e) and 76.607(a).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,937 respondents and 4,868 responses.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement.

Estimated Time per Response: 0.25–80 hours.

Total Annual Burden: 6,036 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i) and (j), 303(r) and 621.

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission will use this information to determine compliance with the CALM Act. The CALM Act mandates that the Commission make the Advanced Television Systems Committee (''ATSC'') A/85 Recommended Practice mandatory for all commercial TV stations and cable/multichannel video programming distributors (MVPDs).

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–27196 Filed 12–15–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate the Receivership of 10388, First National Bank of Olathe, Olathe, Kansas

Notice is Hereby Given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for First National Bank of Olathe, Olathe, Kansas, intends to terminate its receivership for said institution. The FDIC was appointed Receiver of First National Bank of Olathe on August 12, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: December 13, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–27159 Filed 12–15–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate the Receivership of 4632, BestBank, Boulder, Colorado

Notice is Hereby Given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for BestBank, Boulder, Colorado, intends to terminate its receivership for said institution. The FDIC was appointed Receiver of BestBank on July 23, 1998. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: December 13, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–27158 Filed 12–15–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P4–17]

Petition of SM Line Corporation for an Exemption; Notice of Filing and Request for Comments

Notice is hereby given that SM Line Corporation (''Petitioner''), has petitioned the Commission pursuant to 46 CFR 502.92, 502.94, and 530.13(b) for an exemption from the individual service contract amendments provision of 46 CFR 530.10.

Petitioner states that it will soon merge with another Korean affiliated corporation, Woobang E&C, and that the ''merger will include about 769 service contracts.'' The Petitioner speculates the merger will occur ''on or about January 12, 2018 . . .'' Petitioner states that both itself and Woobang E&C will be ''. . . jointly and severally liable, so the current corporation guarantees the performance of the new corporation, including its service contracts.'' Petitioner claims ''[it] would be an undue burden on [itself] and its shipper customers to identify those contracts not assignable by notice and to prepare, sign and file many individual amendments.'' Petitioner claims ''there will be no reduction in competition, and the relief will promote commerce by permitting the orderly servicing of these service contracts.''

In order for the Commission to make a thorough evaluation of the exemption requested in the Petition, pursuant to 46 CFR 502.92, 502.94, and 530.13(b), interested parties are requested to submit views or arguments in reply to the Petition no later than January 2, 2018. Replies shall be sent to the Secretary by email to *Secretary@fmc.gov* or by mail to Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001, and replies shall be served on Petitioners' counsels, Robert B. Yoshitomi, NIXON PEABODY LLP, 799 Ninth Street NW, Ste. 500, Washington, DC 20001, *ryoshitomi@nixonpeabody.com,* and Eric C. Jeffrey, NIXON PEABODY LLP, 799 Ninth Street NW, Ste. 500, Washington, DC 20001, *ejeffrey@nixonpeabody.com.*

Non-confidential filings may be submitted in hard copy to the Secretary at the above address or by email as a PDF attachment to *Secretary@fmc.gov* and include in the subject line: P4–17 (Commenter/Company). Confidential filings should not be filed by email. A confidential filing must be filed with the Secretary in hard copy only, and be accompanied by a transmittal letter that identifies the filing as ''Confidential-Restricted'' and describes the nature and extent of the confidential treatment requested. The Commission will provide confidential treatment to the extent allowed by law for confidential submissions, or parts of submissions, for which confidentiality has been requested. When a confidential filing is submitted, there must also be submitted a public version of the filing. Such public filing version shall exclude confidential materials, and shall indicate on the cover page and on each affected page ''Confidential materials excluded.'' Public versions of confidential filings may be submitted by email. The Petition will be posted on the Commission's website at *http://www.fmc.gov/P4-17.* Replies filed in response to the Petition will also be posted on the Commission's website at this location.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–27135 Filed 12–15–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

[Docket No. R–1584]

RIN 7100 AE 89

Regulation Q; Regulatory Capital Rules: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice.

SUMMARY: The Board is providing notice of the aggregate global indicator amounts for purposes of a calculation for 2017, which is required under the Board's rule regarding risk-based capital surcharges for global systemically important bank holding companies (GSIB surcharge rule).

DATES: *Applicable:* December 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth MacDonald, Manager, (202) 475–6316, or Holly Kirkpatrick, Supervisory Financial Analyst, (202) 452–2796, Division of Supervision and Regulation; or Mark Buresh, Senior Attorney, (202) 452–5270, or Mary Watkins, Attorney, (202) 452–3722, Legal Division. Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board's GSIB surcharge rule establishes a methodology to identify global systemically important bank holding companies in the United States (GSIBs) based on indicators that are correlated with systemic importance.[1] Under the GSIB surcharge rule, a firm must calculate its GSIB score using a specific formula (Method 1). Method 1 uses five equally weighted categories that are correlated with systemic importance—size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity—and subdivided into twelve systemic indicators. For each indicator, a firm divides its own measure of each systemic indicator by an aggregate global indicator amount. The firm's Method 1 score is the sum of its weighted systemic indicator scores expressed in basis points. The GSIB surcharge for the firm is then the higher of the GSIB surcharge determined under Method 1 and a second method that weights size, interconnectedness, cross-jurisdictional activity, complexity, and a measure of a firm's reliance on wholesale funding (instead of substitutability).[2]

The aggregate global indicator amounts used in the score calculation under Method 1 are based on data collected by the Basel Committee on Banking Supervision (BCBS). The BCBS amounts are determined based on the sum of the systemic indicator scores of the 75 largest U.S. and foreign banking organizations as measured by the BCBS, and any other banking organization that the BCBS includes in its sample total for that year. The BCBS publicly releases these values, denominated in euros, each year. Pursuant to the GSIB surcharge rule, the Board publishes the aggregate global indicator amounts each year as denominated in U.S. dollars using the euro-dollar exchange rate provided by the BCBS.[3] Specifically, the Board multiplied each of the euro-denominated indicator amounts made publicly available by the BCBS by

[1] *See* 12 CFR 217.402, 217.404.

[2] The second method (Method 2) uses similar inputs to those used in Method 1, but replaces the substitutability category with a measure of a firm's use of short-term wholesale funding. In addition, Method 2 is calibrated differently from Method 1.

[3] 12 CFR 217.404(b)(1)(i)(B); 80 FR 49082, 49086–87 (August 14, 2015). In addition, the Board maintains the GSIB Framework Denominators on its website, available at *https://www.federalreserve.gov/bankinforeg/basel/denominators.htm.*

1.0541, which was the daily euro to U.S. dollar spot rate on December 30, 2016, as published by the European Central Bank (available at *http://www.ecb.europa.eu/stats/eurofxref/index.en.html*).

The aggregate global indicator amounts for purposes of the 2017 Method 1 score calculation under § 217.404(b)(1)(i)(B) of the GSIB surcharge rule are:

AGGREGATE GLOBAL INDICATOR AMOUNTS IN U.S. DOLLARS (USD) FOR 2017

Category	Systemic indicator	Aggregate global indicator amount (in USD)
Size	Total exposures	$80,007,062,645,840
Interconnectedness	Intra-financial system assets	8,257,981,060,346
	Intra-financial system liabilities	9,326,026,596,609
	Securities outstanding	14,058,608,335,249
Substitutability	Payments activity	2,273,665,800,113,670
	Assets under custody	147,506,550,618,745
	Underwritten transactions in debt and equity markets	6,323,673,403,888
Complexity	Notional amount of over-the-counter (OTC) derivatives	559,101,108,830,245
	Trading and available-for-sale (AFS) securities	3,628,156,457,081
	Level 3 assets	528,537,101,614
Cross-jurisdictional activity	Cross-jurisdictional claims	19,688,183,709,288
	Cross-jurisdictional liabilities	17,261,218,426,372

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.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Supervision and Regulation under delegated authority.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–27161 Filed 12–15–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 5, 2018.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *The Bruey Family Control Group, consisting of Paul and Marjorie Bruey, Yorkshire, Ohio; Barbara and Roger Kremer, Celina, Ohio; Beatrice and Delbert Balster, Tipp City, Ohio; Beverly and Dennis Balster, Vandalia, Ohio; Bridget and John Anthony, Cincinnati, Ohio; Elizabeth and Robert Poeppelman, Osgood, Ohio; and Eric Eyink, Maria Stein, Ohio:* to retain voting shares of OSB Bancorp, Inc., and thereby indirectly retain shares of Osgood State Bank, both of Osgood, Ohio.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Allison M. Grace, Wichita, Kansas, and the Allison M. Grace Trust Agreement dated April 7, 2005;* to acquire voting shares of Andover Financial Corporation, Andover, Kansas, and thereby indirectly acquire shares of Andover State Bank, Andover, Kansas.

2. *Kathy Fowler, Memphis, Texas;* to retain voting shares of First Altus Bancorp, Inc., and thereby retain shares of Frazer Bank, both of Altus, Oklahoma.

Board of Governors of the Federal Reserve System, December 13, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–27184 Filed 12–15–17; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend for an additional three years its OMB clearance for the information collection requirements contained in the Commission's Business Opportunity Rule (''Rule''). That clearance expires on January 31, 2018.

DATES: Comments must be submitted on or before January 17, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Business Opportunity Rule Paperwork Comment, FTC File No. P114408'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/BusinessOptionRulePRA2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade

Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–8528, Washington, DC 20580, (202) 326–3711.

SUPPLEMENTARY INFORMATION: On September 28, 2017, the FTC sought public comment on the information collection requirements associated with the Rule (September 28, 2017 Notice [1]), 16 CFR part 437 (OMB Control Number 3084–0142). No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

Burden Statement

As detailed in the September 28, 2017 Notice, the FTC estimates cumulative annual burden on affected entities to be 10,065 hours, $2,516,250 in labor costs, and $3,062,224 in non-labor costs.

Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before January 17, 2018. Write ''Business Opportunity Rule Paperwork Comment, FTC File No. P114408'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *http://www.ftc.gov/os/publiccomments.shtm.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/tobaccoreportspra,* by following the instructions on the web-based form. When this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you file your comment on paper, write ''Business Opportunity Rule Paperwork Comment, FTC File No. P114408'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov/,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 17, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail are subject to delays due to heightened security precautions. Thus, comments instead can also be sent via email to *wliberante@omb.eop.gov.*

David C. Shonka,

Acting General Counsel.

[FR Doc. 2017–27207 Filed 12–15–17; 8:45 am]

BILLING CODE 6750–01–P

[1] 82 FR 45288.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Date: February 6–7, 2018.

Time: 8:00 a.m.–5:00 p.m., EST.

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, VA 22314.

Agenda: The meeting will convene to address matters related to the conduct of

Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Nina Turner, Ph.D., Scientific Review Officer, NIOSH, 1095 Willowdale Road, Morgantown, WV 26506, (304) 285–5976; *nturner@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–27165 Filed 12–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC); Notice of Charter Renewal; Correction

Notice is hereby given of a change in the Charter Renewal of the Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC), Notice of Charter Renewal which was published in the **Federal Register** on November 24, 2017, Volume 82, Number 225, page 55843.

The name of the committee should read as follows: Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC) and the Summary section should read as follows:

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through November 5, 2019.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, GA 30341, Telephone (770) 488–1430. Email address: *GCattledge@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–27164 Filed 12–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Invitation to Manufacturers of Pertussis Serological Kits

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces an opportunity for commercial manufacturers to work with CDC's National Center for Immunization and Respiratory Diseases (NCIRD) on the validation of pertussis serological kits prior to submission to the Food and Drug Administration (FDA) for marketing authorization. CDC is interested in the development of an assay that is an Immunoglobulin G (IgG) anti-pertussis toxin (PT) enzyme-linked immunosorbent assay (ELISA), calibrated to an international reference standard (such as FDA Reference Standard Lot #3, World Health Organization (WHO) International Standard 06/140, or equivalents). The ELISA will be used for *in vitro* serological diagnosis of pertussis in clinical cases of selected age groups. CDC will be able to provide guidance, materials, and evaluation support for the manufacturer; however, the manufacturer will be responsible for submitting a premarket submission to FDA with adequate information, including any analytical or clinical data needed to support the submission, to demonstrate to FDA that FDA can grant marketing authorization to the product.

DATES: CDC is accepting information through June 18, 2018.

ADDRESSES: You may submit information by any of the following methods:

- *Email: PertussisDL@cdc.gov.*
- *Mail:* Lucia Tondella, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mail Stop D–11, Atlanta, GA 30329.

FOR FURTHER INFORMATION CONTACT:

For Technical Questions: Lucia Tondella, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mail Stop D–11, Atlanta, GA 30329. Phone: 404–639–1239, Email: *PertussisDL@cdc.gov.*

For Business Questions: Jason Cloward, Technology Transfer Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mail Stop E–51, Atlanta, GA 30329. Phone: 404–639–2679, Email: *wnv3@cdc.gov.*

SUPPLEMENTARY INFORMATION: CDC's National Center for Immunization and Respiratory Diseases (NCIRD), Division of Bacterial Diseases (DBD), Meningitis and Vaccine Preventable Diseases Branch (MVPDB) has lead technical responsibility for research, development and evaluation of diagnostic assays for their application in epidemiologic studies of pertussis. CDC uses epidemiologic, laboratory, clinical, and biostatistical sciences to control and prevent bacterial infectious disease such as pertussis. CDC also conducts applied research in a variety of settings, and translates the findings of this research into public health practice.

CDC is working closely with the Council of State and Territorial Epidemiologists (CSTE) to consider including serology as an appropriate diagnostic tool for confirming a pertussis case. Serology can be very useful for diagnosing pertussis in adolescents and adults during the later phases of disease when the current accepted diagnostic methods, culture and PCR, are no longer reliable. Sensitive and specific quantitative seroassays have been developed and are routinely used for diagnosis of pertussis world-wide; however, FDA marketing authorization is necessary before these seroassays can be made commercially available as in vitro diagnostics in the United States. To date, no quantitative pertussis serology kits are commercially available in the United States for diagnostic use.

Interested manufacturers that may have candidate products are invited to contact CDC to discuss potential opportunities for collaboration. At a minimum, discussions with CDC should include the following information for each candidate product:

a. Product package insert or detailed instructions for use.

b. Detailed information to determine if the product is calibrated to a recognized standard.

c. Detailed summary of data demonstrating suitable analytical and clinical test characteristics (*i.e.* precision, linearity, accuracy, sensitivity/specificity, etc.).

Any collaborations that result from these conversations will require that manufacturers enter into an appropriate agreement prior to the transfer of any material to or from CDC. Sample agreements may be viewed at the following website: *https://www.cdc.gov/od/science/technology/techtransfer/researchers/formsagreements/index.htm*.

All information submitted to CDC will be kept confidential as allowed by relevant federal law, including the Freedom of Information Act (5 U.S.C. 552) and the Trade Secrets Act (18 U.S.C. 1905).

Dated: December 13, 2017.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2017–27189 Filed 12–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6752]

Information Requests and Discipline Review Letters Under the Generic Drug User Fee Amendments; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Information Requests and Discipline Review Letters Under GDUFA.'' This draft guidance explains how FDA will issue and use an information request (IR) and/or a discipline review letter (DRL) during the review of an original abbreviated new drug application (ANDA).

DATES: Submit either electronic or written comments on the draft guidance by February 16, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6752 for ''Information Requests and Discipline Review Letters Under GDUFA.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Philip Bonforte, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1668, Silver Spring, MD 20993–0002, 240–402–9871, *philip.bonforte@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Information Requests and Discipline Review Letters Under GDUFA.''

Under the first iteration of the Generic Drug User Fee Amendments of 2012

(GDUFA I), beginning October 1, 2012, FDA agreed to act on received ANDAs within established time frames. As part of this undertaking, the Agency instituted the use of multiple forms of communicating with an applicant regarding the review of an application, including issuance of Complete Response Letters (CRLs) and IRs.[1]

Under GDUFA I, FDA issued a CRL after completing a review of an ANDA. The CRL described all the deficiencies identified in the ANDA that must be satisfactorily addressed before the ANDA can be approved. Issuance of a CRL also completed the ANDA's review cycle, with the next review cycle beginning when the applicant amended the ANDA by submitting a complete response to all deficiencies listed in the CRL.

FDA used IRs to ask for information that would assist reviewers during the course of the review or to convey deficiencies identified in the application in advance of a CRL. IRs did not stop the review clock, did not signal the completion of a review cycle, and were not always used consistently across divisions or offices.

In negotiations held as part of the Generic Drug User Fee Amendments of 2017 (GDUFA II), it was agreed that FDA will: (1) Issue an IR to request further information or clarification that is needed or would be helpful to allow completion of a discipline review and/or (2) issue a new type of letter for ANDAs, known as a DRL, to convey preliminary thoughts on possible deficiencies found by a discipline reviewer and/or review team for its or their portion of the application under review at the conclusion of a discipline review.[2]

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Information Requests and Discipline Review Letters Under GDUFA.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

[1] Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA), Public Law 112–144 (2012). FDASIA includes GDUFA I, and by reference, the Generic Drug User Fee Act Program Performance Goals and Procedures (GDUFA I Commitment Letter).

[2] FDA Reauthorization Act of 2017 (FDARA), Public Law 115–52 (2017). FDARA includes GDUFA II, and by reference, the GDUFA Reauthorization Performance Goals and Program Enhancements Fiscal Years 2018–2022 (GDUFA II Commitment Letter).

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information has been approved under OMB control number 0910–0797.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: December 12, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27124 Filed 12–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–0759]

Drug Products, Including Biological Products, That Contain Nanomaterials; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Drug Products, Including Biological Products, that Contain Nanomaterials.'' This draft guidance has been developed to provide industry with the Agency's current thinking for the development of human drug products, including those that are biological products, that contain nanomaterials. The draft guidance also includes recommendations for applicants and sponsors of investigational, premarket, and postmarket submissions for these products.

DATES: Submit either electronic or written comments on the draft guidance by March 19, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–0759 for ''Drug Products, Including Biological Products, that Contain Nanomaterials.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Katherine Tyner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4146, Silver Spring, MD 20993–0002, 301–796–0085; or Stephen Ripley, Center for Biologics Evaluation and Research, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Drug Products, Including Biological Products, That Contain Nanomaterials.'' This guidance applies to human drug products, including those that are biological products, in which a nanomaterial is present in the finished dosage form. This draft guidance discusses both general principles and specific considerations for the development of drug products containing nanomaterials, including considerations for establishing the equivalence of such products with other drugs. Considerations for quality, nonclinical, and clinical studies are discussed as they relate to drug products containing nanomaterials throughout product development and production.

This draft guidance does not limit or classify the types of nanomaterials that can be used in drug products. Rather, it is focused on the deliberate and purposeful manipulation and control of dimensions to produce specific physicochemical properties which may warrant further evaluation with regards to safety, effectiveness, performance, and quality. This guidance does not address, or presuppose, what ultimate regulatory outcome, if any, will result for a particular drug product that contains nanomaterials. Issues such as the safety, effectiveness, public health impact, or the regulatory status of drug products that contains nanomaterials are currently addressed on a case-by-case basis using FDA's existing review processes. Current CDER and CBER guidance documents and requirements for the evaluation and maintenance of quality, safety, and efficacy, apply to drug product containing nanomaterials that otherwise fall within their scopes. In addition, the Agency may continue to develop guidance addressing certain specific commonly-used types of nanomaterials, *e.g.,* some liposomes, to better address the challenges in evaluating and characterizing the quality and performance of drug products that incorporate them.

This draft guidance is one of several FDA guidance documents related to FDA-regulated products that may involve the use of nanotechnology. FDA has not established regulatory definitions of ''nanotechnology,'' ''nanomaterial,'' ''nanoscale,'' or other related terms. In Guidance for Industry,'' Considering Whether an FDA-Regulated Product Involves the Application of Nanotechnology,'' issued in 2014, FDA described certain considerations for determining whether FDA-regulated products involve the application of nanotechnology. FDA will apply these considerations broadly to all FDA-regulated products, including drug products within the scope of this draft guidance. The use of the term ''nanomaterial'' in this draft guidance, as in other FDA guidance documents, does not constitute the establishment of a regulatory definition. Rather, we use this term for ease of reference only. See section II of the draft guidance for additional information.

FDA requests comment on the draft guidance. We also seek comment on the terminology, including the term ''nanomaterial'', as used in the draft guidance.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on Drug Products, Including Biological Products, That Contain Nanomaterials. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This draft guidance includes recommendations related to collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). The collections of information that are related to the burden of submitting investigational new drug applications are covered under 21 CFR part 312 and have been approved under OMB control number 0910–0014. The collections of information related to the burden of submitting new drug applications, including supplemental applications, are covered under 21 CFR part 314 and have been approved under OMB control number 0910–0001. The collections of information related to the burden of submitting section 351(k) biosimilar applications have been approved under OMB control number 0910–0719. The collections of information related to the burden of complying with the current good manufacturing process recordkeeping requirements under 21 CFR part 211 have been approved under OMB control number 0910–0139. The collections of information related to the burden of complying with the environmental impact requirements under 21 CFR part 25 have been approved under OMB control number 0910–0322. The design and testing of prescription drug labeling required under 21 CFR 201.56 and 201.57 is approved under OMB control number

0910–0572. Concerning the immediate container label and outer container or package, in the **Federal Register** of December 18, 2014 (79 FR 75506), we published a proposed rule on the electronic distribution of prescribing information for human prescription drugs, including biological products. In Section VII, Paperwork Reduction Act of 1995, we estimated the burden to design (including revisions), test, and produce the label for a drug's immediate container and outer container or package, as set forth in 21 CFR part 201 and other sections in subpart A and subpart B.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https;www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: December 12, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27133 Filed 12–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6617]

Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease.'' The purpose of this guidance is to describe the FDA's current recommendations on how to group patients with different molecular alterations for eligibility in clinical trials; and general approaches to evaluating the benefits and risks of targeted therapeutics within a clinically defined disease where some molecular alterations may occur at low frequencies.

DATES: Submit either electronic or written comments on the draft guidance by February 16, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6617 for ''Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Michael Pacanowski, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 301–796–3919; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease.'' This guidance is intended to assist sponsors in designing drug development programs to generate the evidence needed to demonstrate efficacy of a targeted therapy across subsets of patients with different underlying molecular alterations within a disease, where some molecular alterations may occur at low frequencies.

In recent years, advances in our understanding of the molecular pathology of many diseases have led to the development of targeted therapies. Although variability in drug response has long been recognized in drug development, targeted therapies present new challenges in addressing the heterogeneity in drug response because the pharmacological effect of a targeted therapy is often related to a particular molecular alteration (*e.g.,* a mutation, gene fusion, epigenetic change, etc.). Many clinically defined diseases are caused by a range of different molecular alterations, some of which may occur at low frequencies, that impact a common protein or pathway involved in the disease pathogenesis. In a population of patients with the same clinical disease, the heterogeneity in the molecular etiology may result in different responses to a particular therapy. However, certain targeted therapies may be effective in multiple groups of patients that have different underlying molecular alterations. Therefore, FDA is providing guidance on the type and quantity of evidence that can demonstrate efficacy across molecular subsets within a disease.

This guidance addresses the following important topics in evaluating the benefits and risks of targeted therapeutics within a disease where some molecular alterations may occur at low frequencies:

- Identification of patients for inclusion in clinical trials
- Interpretation of study results and generalizability of findings
- Benefit-risk determination and therapeutic product labeling
- Refining the indicated population after the initial approval

In addition to comments on the general content of the draft guidance, FDA requests input on whether the principles described for grouping molecular subsets for clinical trial enrollment should be limited to diseases with low-frequency molecular alterations or whether they could be broadly applicable to all targeted therapies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: December 12, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27156 Filed 12–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6356]

Investigational In Vitro Diagnostics Used in Clinical Investigations of Therapeutic Products; Draft Guidance for Industry, Food and Drug Administration Staff, Sponsors, and Institutional Review Boards; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Investigational IVDs Used in Clinical Investigations of Therapeutic Products.'' This draft guidance is intended to assist sponsors of clinical investigations of therapeutic products that also include investigational in vitro diagnostics (IVDs) and institutional review boards (IRBs) that review such investigations in complying with the Investigational Device Exemption (IDE) regulation. This draft guidance is also intended to assist FDA staff participating in the review of these investigations. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by March 19, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6356 for ''Investigational IVDs Used in Clinical Investigations of Therapeutic Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Investigational IVDs Used in Clinical Investigations of Therapeutic Products'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: David Litwack, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4548, Silver Spring, MD 20993–0002, 301–796–6697 or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance is intended to assist sponsors of clinical investigations of therapeutic products that also include investigational IVDs and IRBs that review such investigations in complying with the IDE regulation. This draft guidance is also intended to assist FDA staff participating in the review of these investigations.

This draft guidance describes when the IDE regulation may apply to certain clinical investigations of therapeutic products; certain regulatory requirements that sponsors should be aware of as they develop and conduct such investigations; recommendations for determining the risk of investigational IVD use in a therapeutic product investigation; recommendations for IRBs in reviewing such investigations; and recommendations for content to provide in an IDE application, when required.

Additionally, FDA is seeking feedback on the policy in the draft guidance regarding the need for an IDE for a significant risk study of an investigational IVD device with a therapeutic product under an IND. Specifically, FDA requests stakeholder perspectives on whether it would be beneficial to allow submission of all IDE components to an IND rather than require both an IDE and an IND. If such an approach would be beneficial, please identify any specific circumstances, for example a companion diagnostic and the associated therapeutic product, where efficiency may be improved or burden may be decreased, or both, without compromising patient safety.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on investigational IVDs used in clinical investigations of therapeutic products. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This draft guidance is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Investigational IVDs Used in Clinical Investigations of Therapeutic Products'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400025 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to currently approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 809 have been approved under OMB control number 0910–0485; the collections of information in parts 50 and 56 have been approved under OMB control number 0910–0755; the collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR 50.23 have been approved under OMB control number 0910–0586; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 820 have

been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001. The collections of information in the guidance document entitled ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' have been approved under OMB control number 0910–0756.

Dated: December 12, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27155 Filed 12–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6765]

Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices.'' FDA is issuing this draft guidance document to update and clarify the policy for a manufacturer's application of an assay that was previously cleared for use based on performance characteristics with a specified instrument, to an additional instrument that was previously cleared or that is a member of an instrument family from which another member has been previously cleared. When finalized, this document will supersede ''Replacement Reagent and Instrument Family Policy,'' issued on December 11, 2003. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by March 19, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6765 for ''Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices; Draft Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Avis Danishefsky, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5620, Silver Spring, MD 20993–0002, 301–796–6142.

SUPPLEMENTARY INFORMATION:

I. Background

In 2003, FDA issued updated guidance on the ''replacement reagent and instrument family policy'' for in vitro diagnostic (IVD) devices. The 2003 guidance described a mechanism for manufacturers to follow when applying an assay that was previously cleared for use based on performance characteristics with a specified instrument, to an additional instrument that was previously cleared or that is a member of an instrument family from which another member has been previously cleared. Through the approach described in the 2003 guidance, manufacturers established sufficient control to maintain the level of safety and effectiveness demonstrated in the cleared device for these types of modified devices, when evaluated against predefined acceptance criteria using a proper validation protocol, without submission of a premarket notification (510(k)).

FDA believes this policy is important for public health as it promotes more timely availability of a wider array of clinical laboratory tests for patient benefit. To ensure that its full benefits are realized, FDA is providing additional clarity to help manufacturers and FDA better apply the concepts in the guidance.

This draft guidance, when finalized, is intended to update and provide clarity on the Replacement Reagent and Instrument Family Policy for manufacturers of IVD devices and FDA staff. It incorporates concepts and recommendations from FDA's guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' issued on October 25, 2017 (82 FR 49375).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Replacement Reagent and Instrument Family Policy for In Vitro Diagnostic Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16045 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations and guidances. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR parts 801 and 809 are approved under OMB control number 0910–0485; the collections of information in the guidance document ''Administrative Procedures for CLIA [Clinical Laboratory Improvement Amendments of 1988] Categorization'' are approved under OMB control number 0910–0607; and the collections of information for requests for feedback on medical device submissions in the guidance document ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' are approved under OMB control number 0910–0756.

Dated: December 12, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27132 Filed 12–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

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

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

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

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grant (R34) and Implementation Cooperative Agreement (U01).

Date: January 16, 2018.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5026, *haririmf@niaid.nih.gov.*

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

Dated: December 12, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27128 Filed 12–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

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

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

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: February 9, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121D, Bethesda, MD 20892–7501, 301–827–5435, *minki.chatterji@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Archiving and Documenting Child Health and Human Development Data Sets.

Date: February 9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Minki Chatterji, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121D, Bethesda, MD 20892–7501, 301–827–5435, *minki.chatterji@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 12, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27129 Filed 12–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

The Department of Homeland Security, Stakeholder Engagement & Cyber Infrastructure Resilience Division (SECIR)

AGENCY: National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; new information collection request: 1670—NEW.

SUMMARY: The DHS NPPD Office of Cybersecurity and Communications (CS&C), SECIR, will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this ICR in the **Federal Register** on Tuesday, July 18, 2017 at 82 FR 32859 for a 60-day public comment period. Ten comments from two commenters were received by DHS. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until January 17, 2018. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. You may send comments, identified by the words ''Department of Homeland Security'' and ''OMB Control Number 1670—NEW (IT Sector Survey)'', by:

○ *Email: dhsdeskofficer@omb.eop.gov.* Include ''Department of Homeland Security'' and ''OMB Control Number 1670—NEW (IT Sector Survey)'' in the subject line of the message.

Instructions: Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Reggie McKinney at 703–705–6277 or at *reggie.mckinney@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 227 of the Homeland Security Act of 2002 authorizes the National Cybersecurity and Communications Integration Center (NCCIC) within NPPD as a ''Federal civilian interface for the multi-directional and cross-sector sharing of information related to . . . cybersecurity risks.'' 6 U.S.C. 148(c)(1). This authority applies to Federal and non-Federal entities, including the private sector, small and medium businesses, sectors of critical infrastructure, and information sharing organizations. This provision includes the authority to receive, analyze and disseminate information about cybersecurity risks and incidents and to provide guidance, assessments, incident response support, and other technical assistance upon request and codifies NPPD's coordinating role among Federal and non-Federal entities. 6 U.S.C. 148.

As part of its information sharing responsibilities with non-Federal entities, the National Defense Authorization Act For Fiscal Year 2017 (NDAA) amended the Homeland Security Act to authorize the Department to specifically focus on small businesses. See Public Law 114–328 (2016). Specifically, the NDAA authorizes NPPD, through the Secretary, to ''leverage small business development centers to provide assistance to small business concerns by disseminating information on cyber threat indicators, defense measures, cybersecurity risks, incidents, analyses, and warnings to help small business concerns in developing or enhancing cybersecurity infrastructure, awareness of cyber threat indicators, and cyber training programs for employees.'' See 6 U.S.C. 148(l)(1); see also 15 U.S.C. 648(a)(8)(A) (similarly authorizing DHS ''and any other Federal department or agency in coordination with the Department of Homeland Security'' to ''leverage small business concerns by disseminating information relating to cybersecurity risks and other homeland security matters to help small business concerns in developing or enhancing cybersecurity infrastructure, awareness of cyber threat indicators, and cyber training programs for employees'').

Consistent with these authorities, E.O. 13636 directs the Department to increase its cybersecurity information sharing efforts with the private sector and consult on and promote the National Institute of Standards and Technology (NIST) Cybersecurity Framework. To facilitate the Department's promotion of the NIST Cybersecurity Framework, the E.O. directs the Secretary to establish a voluntary program to support the adoption of the Framework in coordination with Sector Specific Agencies, which in turn ''shall coordinate with Sector Coordinating Councils to review the Cybersecurity Framework and, if necessary, develop implementation guidance or supplemental materials to address sector-specific risks and operating environments.'' E.O. 13636, 78 FR 11739 (2013).

Accordingly, the Information Technology (IT) Sector, represented by industry via the IT Sector Coordinating Council (SCC) and by government via the IT Government Coordinating Council (GCC), established the IT Sector Small and Midsized Business (SMB) Cybersecurity Best Practices Working Group (''Working Group'') to develop best practices for implementing the NIST Cybersecurity Framework in the SMB community. The Working Group, which consists of industry and government representatives, developed the SMB Cybersecurity Survey to determine return on investment (ROI) metrics for NIST Cybersecurity Framework adoption among SMB stakeholders. This process will assess the effectiveness of the NIST Cybersecurity Framework. This process will also establish a baseline for ROI metrics, which have not previously existed in the SMB community. The IT Sector-Specific Agency (SSA), headquartered in DHS NPPD CS&C, is supporting the Working Group's survey development.

DHS is not administering, controlling or soliciting the collection of the information via the survey. The IT SCC will administer the survey and anonymize the data, which will then be sent to DHS for analysis. As part of the survey process, the IT SCC will collect point of contact (POC) information but will not include that information on the anonymized dataset they submit to DHS. As specified in more detail below, the IT SCC will not only anonymize the data but will also remove any personally identifiable information (PII) from the data prior to transmitting to DHS. DHS will aid with the statistical analysis where needed, but would not be working with the individual responses to the questionnaire.

The questionnaire will be distributed to SMBs and is a two-part survey. Questions 1–11 of the survey are for an organization's leadership, as these questions pertain to high level information about the company (core function, number of employees, etc.). The remaining questions are intended for the Chief Information Security Officer (CISO) or appropriate IT staff, as these questions are technical and ask about the IT security of the company.

As identified above, once the survey is administered by the private sector partners of the IT SCC to the member organizations, the private sector partners of the IT SCC will compile the collected raw inputs and will (a) assign unique random identifiers to each of the responses, (b) scrub any PII from the microdata, (c) conduct quality assurance against the raw input. These processing steps (a–c) will be implemented PRIOR to transmitting the resulting dataset to DHS for statistical analysis. This survey represents a new collection.

DHS will use anonymized data to conduct their analysis. The intent is for DHS to only receive derivative products—anonymized micro-dataset to come up with the summary statistics, or aggregated summary results. The analysis will determine ROI information for NIST Cybersecurity Framework adoption in the SMB community. The results of this analysis will be available to the SMB community to develop best practices on how to use the Cybersecurity Framework for business protection and risk management.

OMB 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.

Title of Collection: The Department of Homeland Security, Stakeholder Engagement & Cyber Infrastructure Resilience Division.

OMB Control Number: 1670—NEW.

Frequency: Once every five years.

Affected Public: Private sector, Small & Midsize Businesses.

Number of Respondents: 1,000 annually.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 500 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2017–27114 Filed 12–15–17; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–80]

30-Day Notice of Proposed Information Collection: Continuation of Interest Reduction Payments After Refinancing Section 236 Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* January 17, 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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

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

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

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 5, 2017 at 82 FR 41976.

A. Overview of Information Collection

Title of Information Collection: Continuation of Interest Reduction Payments After Refinancing Section 236 Projects.

OMB Approval Number: 2502–0572.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–93173 Agreement for Interest Reduction Payments (§ 236(e)(2).

HUD–93175 Agreement for Interest Reduction Payments (§ 236(b)).

HUD–93174 Use Agreement (§ 236(e)(2)).

HUD–93176 Use Agreement (§ 236(b)).

Description of the need for the information and proposed use: The purpose of this information collection is to preserve low-income housing units. HUD uses the information to ensure that owners, mortgagees and or public entities enter into binding agreements for the continuation of Interest Reduction Payments (IRP) after refinancing eligible Section 236 projects. HUD has created an electronic application for eligible projects to retain the IRP benefits after refinancing.

Respondents: (*i.e.* affected public) Profit Motivated or Non-Profit Owners of Section 236 Projects.

Estimated Number of Respondents: 875.

Estimated Number of Responses: 2.

Frequency of Response: 1,750.

Average Hours per Response: I hour.

Total Estimated Burden: 1,750.

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: November 22, 2017.

Inez C. Downs,

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

[FR Doc. 2017–27191 Filed 12–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–79]

30-Day Notice of Proposed Information Collection: Housing Counseling Program—Biennial Agency Performance Review

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* January 17, 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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

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

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

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

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 5, 2017 at 82 FR 41976.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Program—Biennial Agency Performance Review.

OMB Approval Number: 2502–0574.

Type of Request: Extension.

Form Number: HUD–9910.

Description of the Need for the Information and Proposed Use: HUD's Office of Housing Counseling participating agencies are non-profit and government organizations that provide housing counseling services. The information collected allows HUD to monitor and provide oversight for agencies participating in the Housing Counseling Program. Specifically, the information collected is used to ensure that participating agencies comply with program policies and regulations and to determine if agencies remain eligible to provide counseling services under HUD's Housing Counseling Program. Housing counseling aids tenants, potential home buyers and homeowners in improving their housing conditions and in meeting the responsibilities of tenancy and homeownership.

Respondents (i.e. Affected Public): Not-for-profit institutions.

Estimated Number of Respondents: 455.

Estimated Number of Responses: 455.

Frequency of Response: 1.

Average Hours per Response: 9.5.

Total Estimated Burden: 4,322.50.

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: November 22, 2017.

Inez C. Downs,

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

[FR Doc. 2017–27193 Filed 12–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6009–N–05]

Privacy Act of 1974; System of Records Section 811 Project Rental Assistance Evaluation—Phase II

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of a Revision for an Existing System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the Office of Policy Development and Research (PD&R), U.S. Department of Housing and Urban Development (HUD), provides public notice regarding a revision of its System of Records for the Section 811 Project Rental Assistance Evaluation—Phase II. This evaluation will assess the implementation and effectiveness of the Section 811 Project Rental Assistance program for extremely low-income nonelderly adults with disabilities. Primary data collection will include interviews with grantees and program partners and stakeholders and surveys of Section 811 Project Rental Assistance and Project Rental Assistance Contract residents. Secondary (existing) datasets will include HUD administrative data, Medicare and Medicaid data from the Centers for Medicare & Medicaid Services (CMS), state Medicaid data from six state Medicaid agencies, Project Rental Assistance and Project Rental Assistance Contract program documents, and neighborhood administrative data. The second category of user under the routine uses of records maintained in the SORN is revised to clarify that researchers will be under contract with HUD and the purpose of the routine use is producing a dataset to be used to support the ''*Evaluation of the Section 811 Project Rental Assistance Program.*'' A more detailed description of the system of records is contained in the purpose section of this notice.

DATES: *Applicable* January 17, 2018.

Comments Due Date: January 17, 2018.

ADDRESSES: You may submit comments, identified by docket number HUD–2017–[XXXX], by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Facsimile: 202–619–8365.

Email: www.privacy@hud.gov.

Mail: Attention: Privacy Office, Helen Goff Foster, The Executive Secretariat, 451 7th Street, SW, Room 10139, Washington, DC 20410–0001.

Note: All submissions received *must* include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Helen Goff Foster, Senior Agency Official for Privacy, at 451 7th Street, SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001; telephone number 202–708–3054 (this is not a toll-free number). Individuals who are hearing- or speech-impaired may access this telephone number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The new System of Records will encompass data collected by PD&R to evaluate the Section 811 HUD Project Rental Assistance program. The Section 811 Project Rental Assistance program funds a new model of housing assistance that provides funding to state housing agencies to work in partnership with state human services and Medicaid agencies to create community-based supportive housing for extremely low-income nonelderly adults with disabilities, including those who are currently in or at risk for residing in institutions or who are currently (or at risk for becoming) homeless. This study is the second phase of a multiphase evaluation. Phase I documented the implementation experience of the first 12 state housing agencies that were awarded the first round of Project Rental Assistance grants. In Phase II, the evaluation is focused on 6 states selected from 28 state grantees from the first and second rounds of Section 811 Project Rental Assistance funding: California, Delaware, Louisiana, Maryland, Minneapolis, and Washington. The Phase II evaluation will continue to follow the implementation of the program but will also assess the impact of the program on participants' quality of life and care, housing and neighborhood, and utilization and access to health services and supports, as well as assess the cost-effectiveness of this supportive housing model compared to other models of supportive housing for persons with disabilities.

The new notice states the name and location of the record system, the authority for and manner of its operations, the categories of individuals that it covers, the type of records that it contains, the sources of the information for the records, the routine uses made of the records, and the types of exemptions in place for the records. The notice also includes the business address of the HUD officials who will inform interested persons of how they may gain access to and/or request amendments to records pertaining to themselves.

Publication of this notice allows the Department to provide new information about its system of records notices in a clear and cohesive format. The new system of records will incorporate Federal privacy requirements and Department's policy requirements. The Privacy Act places on Federal agencies principal responsibility for compliance with its provisions, by requiring Federal agencies to safeguard an individual's records against an invasion of personal privacy; protect the records contained in an agency system of records from unauthorized disclosure; ensure that the records collected are relevant, necessary, current, and collected only for their intended use; and adequately safeguard the records to prevent misuse of such information. In addition, this notice demonstrates the Department's focus on industry best practices to protect the personal privacy of the individuals covered by this SORN.

Pursuant to the Privacy Act and the Office of Management and Budget (OMB) guidelines, a report of the amended system of records was submitted to OMB, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform, as instructed by paragraph 4c of Appendix l to OMB Circular No. A–130, ''Federal Agencies Responsibilities for Maintaining Records About Individuals,'' November 28, 2000.

System Name and Number:

Section 811 Project Rental Assistance Evaluation—Phase II

SECURITY CLASSIFICATION:

This information will not be classified.

SYSTEM LOCATION:

The records are maintained at the Abt Associates (contractor) offices at 55 Wheeler Street, Cambridge, MA 02138 and 4550 Montgomery Avenue, Bethesda, MD 20814, and the U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–0001.

SYSTEM MANAGER(S):

Carol S. Star, Program Evaluation Division, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW; Washington, DC 20410; telephone number 202–402–6139 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 501 and 502 of the Housing and Urban Development Act of 1970 (Pub. L. 91–609), 12 U.S.C. 1701z–1, 1701z–2.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to allow the Department to collect, track, and study information gathered on Section 811 Project Rental Assistance program participants and to analyze the effectiveness of this rental assistance model compared to other supportive housing models for extremely low-income nonelderly adults with disabilities. This is the second of a multiphase evaluation. The evaluation is funded by the Program Evaluation Division in PD&R. The project will evaluate the implementation of the Section 811 Project Rental Assistance program, its impact on residents, and the cost-effectiveness of this new housing assistance model for persons with disabilities in six states: California, Delaware, Louisiana, Maryland, Minneapolis, and Washington.

Phase II of the Section 811 Project Rental Assistance evaluation will rely on both primary and secondary sources of data to inform the overall evaluation. Primary data collection includes interviews with grantees and program's partners and stakeholders, and surveys of Section 811 Project Rental Assistance and Project Rental Assistance Contract residents. Secondary (existing) datasets will include HUD administrative data, Medicare and Medicaid data from CMS, state Medicaid data from six state Medicaid agencies, Project Rental Assistance and Project Rental Assistance Contract program documents, and neighborhood administrative data.

Primary data collection with grantees, partnering agencies, and Project Rental Assistance and Project Rental Assistance Contract residents is necessary to describe the implementation of the Project Rental Assistance program, identify characteristics of successful program strategies, and assess the impact of the program on Project Rental Assistance residents compared to residents in the traditional Project Rental Assistance Contract program. The collection of secondary data is necessary to identify the outcomes of the Project Rental Assistance program and characteristics of Project Rental Assistance residents, Project Rental Assistance Contract residents, and individuals in the program and comparison groups, and to determine the effectiveness of this new model of housing assistance.

This analysis will inform HUD leadership, policymakers, and HUD partners that implement supportive housing programs for nonelderly adults with disabilities. In addition, the records collected through this evaluation represent HUD's effort to assess and report to Congress on the implementation and effectiveness of this rental assistance approach. The data collected for Section 811 Project Rental Assistance Evaluation—Phase II will be used and stored solely for research purposes, and will not be used to identify individuals or make decisions that affect the rights, benefits, or privileges of specific individuals. The data in this system will include location data, which will be used to analyze the neighborhoods in which Section 811 Project Rental Assistance and Project Rental Assistance Contract residents live. The data in the system will also include information about health, housing, and quality of life measures, which will be used to analyze the extent to which people's lives are being improved by the Section 811 Project Rental Assistance program. The data in this system will be analyzed using statistical methods and only reported in the aggregate. Resulting reports will not disclose or identify any individuals or sensitive personal information. The Section 811 Project Rental Assistance Evaluation is in direct service of the mission of PD&R, which is to ''inform policy development and implementation to improve life in American communities through conducting, supporting, and sharing research, surveys, demonstrations, program evaluations, and best practices.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Data will be collected from households assisted by the Section 811 Project Rental Assistance and Section 811 Project Rental Assistance Contract programs, other extremely low-income households including a person with a disability served by other HUD-assisted housing programs, a sample of individuals receiving Medicaid or similar state plan services, Section 811 housing agency grantees, and partnering agencies (state Medicaid agencies, property owners, service providers, and public housing agencies). All individuals live in the states of California, Delaware, Louisiana, Maryland, Minnesota, and Washington.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data sets will contain the following categories of records:

- *Responses to resident survey:* Include participants' names, address, telephone numbers, names and contact information of proxies and/or legal guardians (if applicable), study identifier, information about their experience with the transition to HUD-assisted housing, subjective assessment of housing quality, subjective assessment of neighborhood quality, information about access to supportive services and unmet needs, information about help with supportive services, subjective assessment of quality of life and community inclusion.
- *Administrative interviews:* Include identifying information—such as full name; job title; and contact information, including addresses, email addresses, and telephone numbers—of program staff and stakeholders (grantee, Medicaid agency, property owners, service providers, and public housing authorities), and qualitative responses about several aspects of the program design and implementation.
- *HUD administrative data:* Include data on individuals, households, and properties available through HUD administrative data. Collection will be brought into the dataset directly from HUD's Tenant Rental Assistance Certification System (TRACS), Public and Indian Housing Information Center (PIC) Inventory Management System (IMS), and Integrated Real Estate Management System (iREMS). Tenant-level and household-level data include participants' full names, dates of birth, addresses, phone numbers, Social Security numbers; information pertaining to the participating family structure, household size, household income, race and demographics, disability status, unit characteristics; and information about participation in HUD programs. Property-level data include housing agency, property, unit characteristic, and financial information and contact information for property owners, including full names, addresses, phone numbers, and email addresses.
- *Medicare and Medicaid data:* Include data on individuals available through the Centers for Medicare & Medicaid Services and state Medicaid agencies (CMS). Collection will be brought into the dataset directly from CMS and state Medicaid agencies under a Data Use Agreement with HUD and its contractor Abt Associates. Include study identifier (that can be matched to

individuals' full names, dates of birth, Social Security numbers), (such as diagnoses), healthcare utilization, and costs. medical record number, and information pertaining to the individuals' medical services, medical information.

RECORD SOURCE CATEGORIES:

(1) Resident surveys collected directly from Section 811 Project Rental Assistance and Project Rental Assistance Contract residents who have agreed to participate in the survey; (2) Administrative interviews collected directly from state housing agency grantees; (3) Administrative interviews collected directly from partnering agencies who have agreed to participate in the study; Administrative data derived from HUD's tenant and property data systems; and Non-HUD administrative data, such as Medicare and historical Medicaid data; and state Medicaid data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. To appropriate agencies, entities, and persons to the extent that such disclosures are compatible with the purpose for which the records in this system were collected, as set forth by Appendix I1—HUD's Library of Routine Uses, published in the **Federal Register** (July 17, 2012, at 77 FR 41996).

2. To researchers under contract with HUD for producing a dataset to be used in the Evaluation of the Section 811 Project Rental Assistance Program.

3. To appropriate agencies, entities, and persons when: (a) HUD suspects or has confirmed that the security or (b) confidentiality of information in a system of records has been compromised; (b) HUD has determined that, because of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of systems or programs (whether maintained by HUD or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm for purposes of facilitating responses and remediation efforts in the event of a data breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Abt Associates provides all project staff with *HIPAA Rules of the Road—Practical Information for Ensuring Compliance,* IRB 101 Training, General Security Awareness Training, and Collaborative Institutional Training Initiative (CITI) Human Subjects Training. All study team members also undergo project-specific training on maintaining privacy and safe data storage and handling procedures. All study team members sign a nondisclosure agreement.

All study team members will be made aware of the project-specific data regulations and best practices associated with handling data for the study. These practices are incorporated in the study protocol and will be detailed in training plans for interviewers, support staff, and data analytic staff. All staff who will have access to the data containing personally identifiable information (PII) or protected health information (PHI) will sign a confidentiality agreement pursuant to the requirements of all data use agreements, which will be attached to the data security plan. All staff will also receive an annual reminder of the terms of the agreement.

Abt will guarantee this level of restricted access by only using secure transfer mechanisms, such as Huddle, Abt's FedRAMP Moderate accredited file transfer service for moving data in and out of the system, or another secure file transfer system (SFTP) of the transferring agency's choice. Abt will also only access the data through its restricted access folder on the Analytic Computing Environment, ACE 3, which meets NIST SP 800–53, Revision 4 FISMA Moderate Standards and utilizes FedRAMP Moderate accredited services from Amazon as infrastructure. Abt Associates will retain all data collected over the life of the study and any analysis files generated with those data for as long as required and only under conditions specified in the study protocol. At the end of the contract, Abt will destroy records that do not need to be retained. Abt will destroy the remainder of the files after the contract ends, as is required in the contract. The retention and disposal procedures are in keeping with HUD's records management policies as described in 44 U.S.C. 3101 and 44 U.S.C. 3303 and with HUD's Records Disposition Schedule 67 PD&R, Item 6 (*https://portal.hud.gov/hudportal/documents/huddoc?id=22256x67ADMH.pdf*). Abt Associates will submit all de-identified data over to HUD at the end of the contract, with the exception of the ResDAC and Medicaid data, which will not be included as per memorandum of understanding with these agencies.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The study's approved data security plan describes the safeguarding of any hardcopy, recorded, and electronic information on human subjects that will be a part of the study. All study team members are aware of the project-specific data regulations and best practices associated with handling data for the study. These practices are incorporated in the study protocol and will be detailed in training plans for interviewers, support staff, and data analytic staff. All staff who will have access to the data containing PII or PHI information sign a confidentiality agreement, per the requirements of all data use agreements.

Abt will guarantee this level of restricted access by only using secure transfer mechanisms, such as Huddle, Abt's FedRAMP Moderate accredited file transfer service for moving data in and out of the system, or another SFTP of the transferring agency's choice. Abt will also only access the data through its restricted access folder on the Analytic Computing Environment, ACE 3, which meets NIST SP 800–53 Revision 4 FISMA Moderate Standards and utilizes FedRAMP Moderate accredited services from Amazon as infrastructure.

RECORD ACCESS PROCEDURES:

For information, assistance, or inquiry about records, contact Helen Goff Foster, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001, telephone number 202–708–3054 (this is not a toll-free number). When seeking records about yourself from this system of records or any other Housing and Urban Development (HUD) system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity, meaning that you must provide your full name, address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made, under penalty of perjury, as a substitute for notarization. In addition, your request should:

a. Explain why you believe HUD would have information on you.

b. Identify which Office of HUD you believe has the records about you.

c. Specify when you believe the records would have been created.

d. Provide any other information that will help the Freedom of Information Act (FOIA) staff determine which HUD office may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with regulations.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR part 16, Procedures for Inquiries. Additional assistance may be obtained by contacting Helen Goff Foster, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001, or the HUD Departmental Privacy Appeals Officers; Office of General Counsel; U.S. Department of Housing and Urban Development; 451 7th Street SW; Washington DC 20410–0001.

NOTIFICATION PROCEDURES:

Individual wishing to determine to whether this system of records contains information about them may do so by contacting their lending institutions or contacting HUD's Privacy Officer or Freedom of Information Act Office at the addresses above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Dated: December 8, 2017.

Helen Goff Foster,

Senior Agency Official for Privacy.

[FR Doc. 2017–27125 Filed 12–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–78]

30-Day Notice of Proposed Information Collection: Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* January 17, 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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

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

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 13, 2017 at 82 FR 43037.

A. Overview of Information Collection

Title of Information Collection: Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM).

OMB Approval Number: 2502–0611.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–27011, HUD–50002, HUD–50012, HUD–9519–A.

Description of the need for the information and proposed use: This information request is a comprehensive collection of requirements for mortgagees that service Home Equity Conversion Mortgage (HECM) mortgages and the HECM mortgagors, who are involved with servicing-related activities that includes collection and payment of mortgage insurance premiums, escrow account administration, providing loan information and customer service.

Respondents (*i.e.,* affected public): Individuals or Household.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 21,345,282.

Frequency of Response: On occasion.

Average Hours per Response: 0.07 (4 minutes).

Total Estimated Burdens: 14,941,697.40.

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: November 22, 2017.

Colette Pollard,

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

[FR Doc. 2017–27195 Filed 12–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6072–N–01]

Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the NDRC Ohio Creek Watershed Project in Norfolk, Virginia

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Intent to Prepare an EIS.

SUMMARY: The Commonwealth of Virginia, through the Virginia Department of Housing and Community Development (DHCD), is providing notice of its intent to prepare an Environmental Impact Statement (EIS) for the Ohio Creek Watershed Project located in the City of Norfolk, Virginia. The proposed project was developed as part of Virginia's application for assistance through the U.S. Department of Housing and Urban Development (HUD) under the National Disaster

Resilience Competition (NDRC). NDRC's objectives through the competition are to support innovative resilience projects at a local level. This Notice of Intent to prepare an EIS represents the beginning of the public scoping process. Following the scoping meeting referenced below, a Draft EIS will be prepared and ultimately circulated for public comment.

FOR FURTHER INFORMATION CONTACT: For further information please contact Traci Munyan, Virginia Department of Housing and Community Development, Resiliency Program Manager, 600 East Main Street, Suite 300 Richmond, Virginia 23219; telephone number 804–371–7059, fax number 804–371–7093 or by email at: *ResiliencyVA@dhcd.virginia.gov.* A public scoping meeting will be held for this EIS on February 21, 2018 from 5:30 until 7:30 p.m. at the Grandy Village Learning Center, located at 2971 Kimball Loop Norfolk, VA 23504. The meeting will be proceeded by a notice of public meeting published in local news media at least 15 days prior to the meeting date. The scoping meeting will provide an opportunity for the public to learn more about the project and to provide input on the environmental process. During the meeting, an overview of the project will be provided as well as details on concept development.

SUPPLEMENTARY INFORMATION: The Ohio Creek Watershed Project, located in the City of Norfolk, was selected by HUD through the NDRC process and awarded Community Development Block Grant Disaster Recovery (CDBG–DR) funding. The proposed action is subject to compliance with the National Environmental Policy Act of 1969 (NEPA) because federal CDBG–DR funds would be used for design and construction. The Commonwealth of Virginia, acting through the Virginia Department of Housing and Community Development (DHCD), is the responsible entity assuming environmental responsibility for the Ohio Creek Watershed Project in accordance with HUD regulations at 24 CFR 58.1(b)(1) and 58.2(a)(7)(i).

This Notice of Intent to Prepare an EIS is given in accordance with the Council on Environmental Quality (CEQ) regulations at 40 CFR parts 1500–1508, and represents the beginning of the public scoping process outlined in 40 CFR 1501.7. Following the scoping meeting referenced above, a Draft EIS will be prepared and circulated for public comment. The Draft EIS will be circulated to the general public, as well as groups and government agencies that have been identified as having particular interest in the Proposed Project. A Notice of Availability will be published in local media outlets at that time in accordance with HUD and CEQ regulations.

The Ohio Creek Watershed project is located in Norfolk, Virginia. It is bounded by the Eastern Branch of the Elizabeth River to the south, the Interstate 264 area to the north, the Norfolk Southern railway to the east and a shipyard along with South Brambleton to the west. Due to its geographic position, Norfolk is faced with the threat of sea level rise. Nuisance flooding from high tides and rain events is becoming more frequent and the risk of inundation from storm surges is increasing. Compounding this threat is a high rate of subsidence. The Ohio Creek NDR project will pursue a multi-faceted, long-term approach to increase safety and resiliency by building coastal defense structures, improving stormwater management, raising critical access roads and infrastructure.

The proposed project consists of an innovative holistic regional resiliency approach that extends beyond infrastructure to encompass community and economic development. This approach is called ''thRIVe: Resilience In Virginia'' whose core goals are to Build Water Management Solutions, Strengthen Vulnerable Neighborhoods and Improve Economic Vitality. When combined, these goals are intended to Create Coastal Resilience and Unite the Region. Design components of the proposed project consist of: (1) Coastal protection to include a living shoreline and berm, (2) Stormwater management to include raised roads and tide gates, pump stations, bioswales, permeable pavers, rain barrels, and subsurface cisterns, (3) Landscape and Community Amenities to include corridor improvements for multi-modal transit, public pier for river access, stormwater parks to include amenities such as sports fields, playgrounds and fitness stations.

Several project elements have been selected to move to the next level of design. Design elevations of integrated coastal flood protection elements have been established to reduce inundation risk from 100-year events, including nor'easters, hurricanes and extreme tides with a projected sea level rise of +2.5 feet. These elements (berms, living shorelines, etc.) will be aligned to reduce risk for the maximum number of buildings and infrastructure that are most susceptible to coastal inundation.

Stormwater and tides are impounded by existing land bridges within the project site that result in flooding in the surrounding neighborhoods. Integration of tide gate structures into the coastal flood protection and raised roadways will maintain ecological function to wetlands while protecting the neighborhood from tidal flooding events. Ballentine Boulevard and Kimball Terrace are the only two vehicular access routes into the project area and they are both subject to storm surge flooding and nuisance flooding. Additionally, several roads within the community are impassable during heavy rain or high tides due to their low elevation or poor drainage. Raising these critical roads is a key component of the proposed project. Many of the roads will need to be raised to various elevations to work in conjunction with the coastal protection elements. Upgrades to the subsurface drainage systems as well as construction of coastal flood protection will necessitate the need for pump stations to discharge stormwater into the Eastern Branch of the Elizabeth River. Drainage system upgrades and additional water storage areas aim to reduce the number of pump stations needed.

Reducing flooding during 10-year rain events is also a principal project goal. Installation of a coastal protection and closing the drainage system to the tides necessitates finding opportunities to slow, store, and infiltrate stormwater. Street interventions are designed to reduce flooding risk, minimize pumping requirements, demonstrate green infrastructure techniques, increase pedestrian access and safety, and beautify neighborhoods. Ballentine Boulevard connects the neighborhood from the river northward to the larger city. A TIDE light rail station is located north of the I–264 underpass and provides connection to the city's light rail system. The Ballentine Boulevard corridor functions as a connector at both a neighborhood and a city scale making it a prime location for the expansion of multi-modal transportation opportunities. The corridor also allows for opportunities to demonstrate innovative stormwater strategies through the use of bioswales along sidewalks, permeable pavers at the edge of streets, in parking lanes and at intersections. Improvements to the corridor would create continuous and improved sidewalk conditions, allowing for both pedestrian and cyclist access from the I–264 underpass to the Eastern Branch of the Elizabeth River, terminating in a public pier. Corridor improvements tie into proposed stormwater parks to provide increased recreational and educational opportunities. Stormwater parks incorporate bioswale plantings with

native water plants located in areas where the swale can be expanded to help slow and filter stormwater runoff before it reaches the Eastern Branch of the Elizabeth River. Though stormwater parks will be designed to maximize storage, they can also be educational and created in a way that serves as a destination for Norfolk residents by providing premier opportunities for outdoor sports, play, and fitness for citizens of all ages.

Alternatives to the Proposed Action: Consistent with the Council on Environmental Quality regulations (40 CFR 1502.14) implementing NEPA, the EIS will examine a range of reasonable alternatives to the proposed project that are potentially feasible. As required by NEPA, the alternatives will be evaluated at the same level of detail as the proposed project. As a result of the scoping efforts to date, the alternatives currently proposed for evaluation in the EIS include:

(1) No Project/Action Alternative. This required alternative would evaluate the environmental impacts if the proposed project were not constructed and existing conditions remain unchanged.

(2) Preferred Alternative. The alternative attaining the most objectives of the project that can be accomplished while also substantially lessening significant environmental effects.

(3) Two other alternatives (to be identified) based on input received during the scoping process and feasible project alternatives that avoid or minimize significant environmental effects.

Probable Environmental Effects: The following topics have been identified for analysis in the EIS for probable environmental effects: coastal zone management, contamination and toxic substances, floodplain management, historic preservation, noise abatement and control, wetlands protection, environmental justice, hazards and nuisances (site safety and noise), vibration, and transportation and accessibility.

Lead Agency: For purposes of complying with NEPA and in accordance with HUD regulations at 24 CFR part 58, the Commonwealth of Virginia, acting through the Virginia Department of Housing and Community Development, is the Lead Agency and Responsible Entity assuming environmental responsibility for the Ohio Creek Watershed Project. Questions may be directed to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

Dated: December 12, 2017.

Neal J. Rackleff,

Assistant Secretary.

[FR Doc. 2017–27194 Filed 12–15–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0008; DS63644000 DR2000000.CH7000 189D0102R2; OMB Control Number 1012–0006]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Suspensions Pending Appeal and Bonding

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of extension.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we, the Office of Natural Resources Revenue (ONRR), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 17, 2018 for the assurance of consideration.

ADDRESSES: You may submit your written comments on this ICR to the Office of Management and Budget's Desk Officer for the Department of the Interior by email to *OIRA_Submission@omb.eop.gov:* or via facsimile to (202) 395–5806. Please also mail a copy of your comments to Mr. Luis Aguilar, Regulatory Specialist, P.O. Box 25165, MS 64400, Denver, Colorado 80225–0165, or by email to *luis.aguilar@onrr.gov.* Please reference ''OMB Control Number 1012–0006'' in your comments.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Ms. Kimberly Werner, Office of Enforcement and Appeals (OEA), ONRR, at (303) 231–3801 or email to *kimberly.werner@onrr.gov.* For other questions, contact Mr. Luis Aguilar, at (303) 231–3418, or email to *luis.aguilar@onrr.gov.* You may also contact Mr. Aguilar, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require us to collect the information. You may view the ICR at *http://www.reginfo.gov/public/do/PRAMain* and select ''Information Collection Review,'' then select ''Department of the Interior'' in the drop-down box under ''Currently Under Review.''

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, 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 published a notice, with a 60-day public comment period soliciting comments on this collection of information, in the **Federal Register** on June 19, 2017 (82 FR 27868). We received the following comments in response to the notice: ''We respectfully offer the following scenario on this process from start to finish: (1) Upon demand letter from the ONRR, Fieldwood Energy responds with correspondence requesting the ONRR accept Area-Wide Bonds currently filed with the BOEM for our various entities, which incidentally total excess of $23 million, to secure the nominal Administrative Appeals in lieu of separate specific Appeal bonds. It should be noted that none of the monetary demands from ONRR have come close to exceeding $1 million; (2) In the event, the use of and Area-Wide bond is rejected by ONRR, Fieldwood then must approach the commercial surety market to negotiate terms with prospective sureties for the amount required by ONRR—this may entail the production of recent financial information as well as operational plans on Fieldwood leading up to several calls and discussions with the surety. This may also require the establishment of new relationships with sureties who do not know our company—all of which is time consuming and not done overnight; and (3) Ultimately, Fieldwood obtains a surety bond and files it with your office. So, it is quite customary for this process to take days and not several hours of our staff's time.

''The two burden hours for the majority of the typical requests received are adequate. On some occasions, we might have to have a little more internal dialogue or research if we do not have all the information for the appeal upfront. Generally, those requests fall in the 2–4 hour burden. For the most part, however, 2 hours is generally the amount of burden hours needed. There again, for clarification, this is the internal burden time for our staff. It would take generally 48–72 hours for our surety to turn around the request.

''For WPX who has an existing surety bond line, 2 hours are probably sufficient labor hours. However, for

companies that do not have bond line or have used up their capacity, the amount of time spent securing the security bond could take much longer.''

Once again, we are soliciting comments on this ICR 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 ONRR; (2) will this information be processed and used in a timely manner; (3) is the estimate of the burden accurate; (4) how might ONRR enhance the quality, usefulness, and clarity of the information collected; and (5) how might ONRR 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. Before including your Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal identifying information, in your comment(s), you should be aware that your entire comment—including PII—may be made available to the public at any time. While you may ask us, in your comment, to withhold your PII from public view, we cannot guarantee that we will be able to do so.

Abstract: The Secretary of the United States Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibilities are to manage mineral resources production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. The Secretary also has a trust responsibility to manage Indian lands and seek advice and input from Indian beneficiaries. ONRR performs the royalty management functions and assists the Secretary in carrying out the Department's responsibility for Indian lands. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at *http://onrr.gov/Laws_R_D/PubLaws/default.htm.*

I. General Information

If ONRR determines that a lessee has not properly reported or paid royalties and other mineral revenues, we may issue an order to pay additional royalties, a Notice of Noncompliance, or a Civil Penalty Notice requiring correct reporting or payment. Lessees then have a right to appeal ONRR determinations.

Implementing regulations at 30 CFR part 1243 govern the suspension of orders or decisions and to stay the accrual of civil penalties (if the Office of Hearings and Appeals grants a lessee's petition to stay accrual of civil penalties), pending administrative appeal for Federal leases. These regulations require an appellant to submit information demonstrating financial solvency in lieu of providing a surety. For those appellants who are not financially solvent or for appeals involving Indian leases, ONRR requires appellants to post a surety instrument to secure the financial interest of the public and Indian lessors during the entire administrative or judicial appeal process. This ICR covers the burden hours that appellants incur when submitting the financial statements or surety instruments, subject to annual audit, that are required to stay an ONRR order, decision, or accrual of civil penalties.

II. Information Collections

Title 30 CFR 1243.1 states that lessees or recipients of ONRR orders may suspend compliance with an order if they appeal under 30 CFR part 1290. Pending appeal, ONRR may suspend the payment requirement if the appellant submits a formal agreement of payment in case of default such as a bond or other surety; for Federal oil and gas leases, the appellant may demonstrate financial solvency. If the Office of Hearings and Appeals grants a lessee's, or other recipient of a Notice of Noncompliance or Civil Penalty Notice, request to stay the accrual of civil penalties under 30 CFR 1241.55(b)(2) and 1241.63(b)(2), the lessee or other recipient must post a bond or other surety, or for Federal oil and gas leases, demonstrate financial solvency.

ONRR accepts the following surety types: form ONRR–4435, Administrative Appeal Bond; form ONRR–4436, Letter of Credit; form ONRR–4437, Assignment of Certificate of Deposit; Self-bonding; and U.S. Treasury Securities.

When an appellant selects and puts one of the surety types in place, the appellant must maintain the surety until completion of the appeal. If the appeal is decided in favor of the appellant, ONRR returns the surety to the appellant. If the appeal is decided in favor of ONRR, then we will take action to collect the total amount due or draw down on the surety. We draw down on a surety if the appellant fails to comply with requirements relating to the amount due, timeframe, or surety submission or resubmission. Whenever ONRR must draw down on a surety, we must draw down the total amount due, which is defined as unpaid principal plus the interest accrued to the projected receipt date of the surety payment. Appellants may refer to the Surety Instrument Posting Instructions, which are at *http://www.onrr.gov/compliance/appeals.htm.*

Forms and Other Surety Types

Form ONRR–4435 [Administrative Appeal Bond]

Appellants may file form ONRR–4435, Administrative Appeal Bond, which ONRR uses to secure the financial interests of the public and Indian lessors during the entire administrative and judicial appeal process. Under 30 CFR 1243.4, appellants must submit their contact and surety amount information on the bond to obtain the benefit of suspension of an obligation to comply with an order. A surety company that the U.S. Department of the Treasury approves (see Department of the Treasury Circular No. 570, as revised periodically in the **Federal Register**) must issue the bond. The ONRR Director or the ONRR-delegated bond-approving officer maintains these bonds in a secure facility. After the appeal has concluded, ONRR may release and return the bond to the appellant or collect payment on the bond. If collection is necessary for a remaining balance, ONRR will issue a demand for payment to the surety company with a notice to the appellant. We also will include all interest accrued on the affected bill.

Form ONRR–4436 [Letter of Credit]

Appellants may choose to file form ONRR–4436, Letter of Credit (LOC), with no modifications. Requirements at 30 CFR 1243.4 continues to apply. The ONRR Director or the ONRR-delegated bond-approving officer maintains the LOC in a secure facility.

The appellant is responsible for verifying that the bank provides a current Fitch rating to ONRR. After the appeal has been concluded, ONRR may release and return the LOC to the appellant or collect payment on the LOC. If collection is necessary for a remaining balance, we will issue a demand for payment, which includes all interest assessed on the affected bill, to the bank with a notice to the appellant.

Form ONRR–4437 [Assignment of Certificate of Deposit]

Appellants may choose to secure a debt using a Certificate of Deposit (CD) from a bank with the required minimum Fitch rating and by submitting form ONRR–4437, Assignment of Certificate of Deposit. Appellants must file the

request with ONRR prior to the invoice due date. We will accept a book-entry CD that explicitly assigns the CD to the Director. If collection of the CD is necessary for an unpaid balance, we will return unused CD funds to the appellant after total settlement of the appealed issues including applicable interest charges.

Self-Bonding

For Federal oil and gas leases, regulations at 30 CFR 1243.201 provides that no surety instrument is required when a person representing the appellant periodically demonstrates to the satisfaction of ONRR, that the guarantor or appellant is financially solvent or otherwise able to pay the obligation. Appellants must submit a written request to ''self-bond'' every time a new appeal is filed. To evaluate the financial solvency and exemption from requirements of appellants to maintain a surety related to an appeal, ONRR requires appellants to submit a consolidated balance sheet subject to annual audit. In some cases, we also require copies of the most recent tax returns (up to 3 years) that appellants file.

In addition, appellants must annually submit financial statements, subject to audit, to support their net worth. ONRR uses the consolidated balance sheet or business information supplied to evaluate the financial solvency of a lessee, designee, or payor seeking a stay of payment obligation pending review. If appellants do not have a consolidated balance sheet documenting their net worth or if they do not meet the $300 million net worth requirement, ONRR selects a business information or credit reporting service to provide information concerning an appellant's financial solvency. We charge the appellant a $50 fee each time we need to review data from a business information or credit reporting service. The fee covers our costs in determining an appellant's financial solvency.

U.S. Treasury Securities

Appellants may choose to secure their debts by requesting to use a U.S. Treasury Security (TS). Appellants must file the letter of request with ONRR prior to the invoice due date. The TS must be a U.S. Treasury note or bond with maturity equal to or greater than 1 year. The TS must equal 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect ONRR against interest rate fluctuations). ONRR only accepts a book-entry TS.

III. OMB Approval

The information we collect under this ICR is essential in order to require response from appellants to suspend compliance with an order pending appeal.

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and also may result in loss of royalty and other payments. ONRR protects the proprietary information received and does not collect items of a sensitive nature in this ICR.

IV. Data

Title: Suspensions Pending Appeal and Bonding, 30 CFR part 1243.

OMB Control Number: 1012–0006.

Bureau Form Numbers: ONRR–4435, ONRR–4436, and ONRR–4437.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 105 Federal or Indian appellants.

Total Estimated Number of Annual Responses: 105.

Estimated Completion Time per Response: 2 hours.

Total Estimated Number of Annual Burden Hours: 210 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Annually and on occasion.

Total Estimated Annual Nonhour Burden Cost: There are no additional recordkeeping costs associated with this ICR. However, ONRR estimates that five appellants per year will pay a $50 fee to obtain credit data from a business information or credit reporting service, which is a total ''non-hour'' cost burden of $250 per year (5 appellants per year × $50 = $250).

We have not included in our estimates certain requirements performed in the normal course of business that are considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR part 1243	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1243.4(a)(1)	How do I suspend compliance with an order? (a) If you timely appeal an order, and if that order or portion of that order: (1) Requires you to make a payment, and you want to suspend compliance with that order, you must post a bond or other surety instrument or demonstrate financial solvency * * *	2	40 (Forms ONRR–4435, ONRR–4436, ONRR–4437; or TS).	80
1243.6	When must I or another person meet the bonding or financial solvency requirements under this part? If you must meet the bonding or financial solvency requirements under § 1243.4(a)(1), or if another person is meeting your bonding or financial solvency requirements, then either you or the other person must post a bond or other surety instrument or demonstrate financial solvency within 60 days after you receive the order or the Notice of Order.	Burden hours covered under § 1243.4(a)(1).		
1243.7(a)	What must a person do when posting a bond or other surety instrument or demonstrating financial solvency on behalf of an appellant?	Burden hours covered under § 1243.4(a)(1).		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR part 1243	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	If you assume an appellant's responsibility to post a bond or other surety instrument or demonstrate financial solvency * * * (a) Must notify ONRR in writing * * * that you are assuming the appellant's responsibility * * *			
1243.8(a)(2) and (b)(2) ..	When will ONRR suspend my obligation to comply with an order? (a) *Federal leases.* * * * (2) If the amount under appeal is $10,000 or more, ONRR will suspend your obligation to comply with that order if you: (i) Submit an ONRR-specified surety instrument under subpart B of this part within a time period ONRR prescribes; or (ii) Demonstrate financial solvency under subpart C. (b) *Indian leases.* * * * (2) If the amount under appeal is $1,000 or more, ONRR will suspend your obligation to comply with that order if you submit an ONRR-specified surety instrument under subpart B of this part within a time period ONRR prescribes.	Burden hours covered under § 1243.4(a)(1).		
1243.101(b)	How will ONRR determine the amount of my bond or other surety instrument? * * * (b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually * * *	Burden hours covered under § 1243.4(a)(1).		
1243.200(a) and (b)	How do I demonstrate financial solvency? ..... (a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the ONRR bond-approving officer, up to 3 years of tax returns to the ONRR, * * * (b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date ONRR first determined that you demonstrated financial solvency as long as you have active appeals, or whenever ONRR requests. * * *	2	65 ..... (Self-bonding submissions).	130
1243.201(c)(1), (c)(2)(i) and (c)(2)(ii) and (d)(2).	How will ONRR determine if I am financially solvent? ... * * * (c) If your net worth, minus the amount we would require as surety under subpart B for all orders you have appealed is less than $300 million, you must submit * * * (1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and (2) A nonrefundable $50 processing fee: (i) You must pay the processing fee * * *; (ii) You must submit the fee with your request * * * and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency * * * and you have active appeals. (d)* * * (2) For us to consider you financially solvent, the business-information or credit–reporting service or program must demonstrate your degree of risk as low to moderate: * * *	Burden hours covered under §§ 1243.4(a)(1) and 1243.200(a) and (b)		
1243.202(c)	When will ONRR monitor my financial solvency? ..... * * * (c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other ONRR-specified surety instrument under subpart B.	Burden hours covered under § 1243.4(a)(1).		
Total Burden	.....	.....	105	210

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.

ONRR Information Collection Clearance Officer: Luis Aguilar (303) 231–3418.

Authority: The authorities for this action are the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1337) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

[FR Doc. 2017–27204 Filed 12–15–17; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1012]

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same; Commission Determination To Review-in-Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions; Extension of Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ'') final initial determination (''Final ID'') issued on September 1, 2017, finding a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'') in the above-captioned investigation. The Commission has also determined to extend the target date for completion of the above-captioned investigation to February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 1, 2016, based on a Complaint filed by Fujifilm Corporation of Tokyo, Japan, and Fujifilm Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, ''Fujifilm''). 81 FR 43243–44 (July 1, 2016). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the sale for importation, importation, and sale within the United States after importation of certain magnetic data storage tapes and cartridges containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,641,891 (''the '891 patent''); 6,703,106 (''the '106 patent''); 6,703,101 (''the '101 patent''); 6,767,612 (''the '612 patent''); 8,236,434 (''the '434 patent''); and 7,355,805 (''the '805 patent''). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named as respondents Sony Corporation of Tokyo, Japan, Sony Corporation of America of New York, New York, and Sony Electronics Inc. of San Diego, California (collectively, ''Sony''). The Office of Unfair Import Investigations (''OUII'') was also named as a party to the investigation. The Commission later terminated the investigation as to the '101 patent. Order No. 24 (Jan. 18, 2017); Notice (Feb. 15, 2017).

On September 1, 2017, the ALJ issued his final ID finding a violation of section 337 with respect to claims 1, 4–9, 11, and 14 of the '891 patent and asserted claims 1, 2, 4, 5, 7, and 8 of the '612 patent. The ALJ found no violation of section 337 with respect to asserted claims 9–11 of the '612 patent; asserted claim 2, 5, and 6 of the '106 patent; asserted claim 1 of the '434 patent; and asserted claims 3 and 10 of the '805 patent.

In particular, the Final ID finds that Sony's accused products infringe claims 1, 4–9, 11, and 14 of the '891 Patent under 35 U.S.C. 271(a). The Final ID also finds that Fujifilm's domestic industry (''DI'') products practice the asserted claims of the '891 Patent, thus Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '891 Patent regarding its LTO–6 and LTO–7 DI products. The Final ID finds that Sony has not shown that the asserted claims of the '891 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that Sony's accused products infringe asserted claims 1, 2, 4, 5, 7, and 8 of the '612 Patent under 35 U.S.C. 271(a). The Final ID finds, however, that Fujifilm failed to show that Sony has induced infringement of claims 9–11 of the '612 Patent under 35 U.S.C. 271(b). The Final ID further finds that Fujifilm's DI products practice claims 1, 2, 4, 5, and 7–11 of the '612 Patent and, thus, Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '612 Patent regarding its LTO–6 and LTO–7 DI products. The Final ID finds that Sony has not shown that the asserted claims of the '612 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that the accused products do not infringe asserted claims 2, 5, and 6 of the '106 Patent under 35 U.S.C. 271(a). The Final ID further finds that neither Fujifilm's LTO–6 nor LTO–7 DI products practice any claim of the '106 Patent, thus Fujifilm has failed to satisfy the technical prong of the domestic industry requirement with respect to the '106 Patent. The Final ID also finds that Sony has not shown that the asserted claims of the '106 Patent are invalid under 35 U.S.C. 102 or 103, but has shown that the asserted claims of the '106 Patent are indefinite under 35 U.S.C. 112.

The Final ID finds that the accused products do not infringe asserted claim 1 of the '434 under 35 U.S.C. 271(a). The Final ID further finds that Fujifilm's LTO–7 DI products do not practice any claim of the '434 Patent, thus Fujifilm has failed to satisfy the technical prong of the domestic industry requirement with respect to the '434 Patent. The Final ID finds that Sony has not shown that the asserted claims of the '434 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds the accused products do not infringe asserted claims 3 and 10 of the '805 Patent under 35 U.S.C. 271(a). The Final ID further finds that Fujifilm's LTO–7 DI products practice claims 1, 2, 3, and 10 of the '805 Patent. The Commission notes that the Final ID misstates its finding concerning the technical prong in the Conclusions of Fact and Law with respect to the '805 Patent The Final ID finds that Sony has not shown that the asserted claims of the '805 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that Fujifilm has satisfied the economic prong of the domestic industry requirement with

respect to the '891, '612, and '106 Patent pursuant to 19 U.S.C. 337(A) and (B) for the asserted LTO–6 DI products. The Final ID finds that Fujifilm has not satisfied the economic prong requirement for the asserted LTO–7 DI products, which Fujifilm asserted alone with respect to the '434 and '805 patents.

The Final ID finds Sony has not shown that the '612, '106, and '805 Patents are essential to the LTO–7 Standard. The Final ID also finds that Fujifilm has not breached any provisions of the Fujifilm AP–75 agreement, in particular §§ 8.2 or 11.11. The Final ID further finds that Sony has not shown that the AP–75 agreement warrants barring Fujifilm's claims or terminating the investigation. The Final ID also finds that patent misuse does apply to bar Fujifilm's claims. The Final ID further finds that Fujifilm has not waived its rights to enforce the patents-in-suit. The Final ID also finds that Sony does not have an implied license to the patents-in-suit. The Final ID further finds that Sony has not shown that patent exhaustion applies.

On September 12, 2017, the ALJ issued his recommended determination on remedy and bonding. As instructed by the Commission, the ALJ also made findings concerning the public interest factors set forth in 19 U.S.C. 1337(d)(1) and (f)(1). *See* 81 FR 43243. The ALJ recommended that the appropriate remedy is a limited exclusion order and a cease and desist order against Sony. The ALJ recommended that the Commission require no bond during the period of Presidential review. The ALJ further found that public interest factors do not bar or require tailoring the recommended exclusion order. The ALJ also found that even if the asserted claims are essential, the public interest does not favor tailoring or curbing and exclusion order because Fujifilm did not breach its obligations under the AP–75 Agreement.

On September 18, 2017, Sony and OUII each filed petitions for review of various aspects of the Final ID. Also on September 18, 2017, Fujifilm filed a contingent petition for review of various aspects of the Final ID.

Sony petitions for review of the Final ID's finding that the asserted claims of the '891 Patent are not invalid as indefinite, anticipated, or obvious. Sony also petitions for review of the Final ID's findings that Sony's accused products infringe the asserted claims 1, 2, 4, 5, 7, and 8 of the '612 Patent and that the asserted claims of the '612 Patent are not invalid as obvious or indefinite. Sony contingently petitions for review of the Final ID's finding that the asserted claims are not invalid as obvious. Sony also contingently petitions for review of the Final ID's findings that the asserted claim of the '434 Patent is not invalid as indefinite or obvious. Sony further contingently petitions for review of the Final ID's findings that claims 3 and 10 are not invalid as anticipated. Sony also petitions for review of the Final ID's finding regarding Fujifilm's AP–75 Agreement. Sony further petitions for review of the Final ID's finding that Fujifilm has satisfied the economic prong of the domestic industry requirement with respect to its LTO–6 DI products.

OUII petitions for review of the Final ID's finding that Fujifilm failed to satisfy the technical prong of the domestic industry requirement with respect to the '434 Patent and that Sony's accused products do not infringe claim 1 of the '434 Patent.

Fujifilm contingently petitions for review of the Final ID's findings that Sony's accused LTO–7 products do not infringe claim 1 of the '434 Patent and that Fujifilm's LTO–7 DI products do not satisfy the technical prong with respect to claim 1 of the '434 Patent. Fujifilm also contingently petitions for review of the Final ID's finding that Sony's accused products do not infringe the asserted claims of the '805 Patent. Fujifilm further contingently petitions for review of the Final ID's findings that Sony's accused LTO–7 products do not infringe the asserted claims of the '106 Patent, that Fujifilm's LTO products do not satisfy the technical prong with respect to the asserted claims of the '106 Patent, and that the asserted claims of the '106 Patent are invalid as indefinite. Fujifilm also contingently petitions for review of the Final ID's findings with respect to secondary considerations of non-obviousness with respect to the patents-in-suit. Fujifilm further contingently petitions for review of the Final ID's finding that Fujifilm has failed to satisfy the economic prong with respect to its LTO–7 DI products.

On September 26, 2017, Fujifilm, Sony, and OUII filed responses to the various petitions for review.

On October 6, 2017, Fujifilm filed a post-RD statement on the public interest pursuant to Commission Rule 210.50(a)(4). Sony filed its statement on October 13, 2017. No responses were filed by the public in response to the post-RD Commission Notice issued on September 13, 2017. *See* Notice of Request for Statements on the Public Interest (Sept. 13, 2017); 82 FR 43567–68 (Sept. 18, 2017).

Having examined the record of this investigation, including the Final ID, the petitions for review, and the responses thereto, the Commission has determined to review the Final ID in part.

Specifically, the Commission has determined to review-in-part the Final ID's finding of violation with respect to the '891 Patent. In particular, the Commission has determined to review the Final ID's findings with respect to anticipation and obviousness. The Commission has further determined to review the Final ID's findings concerning secondary considerations.

The Commission has also determined to review-in-part the Final ID's finding of violation with respect to the '612 Patent. Specifically, the Commission has determined to review the Final ID's finding that the asserted claims of the '612 Patent are not obvious. Accordingly, the Commission has also determined to review the Final ID's finding that Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '612 Patent.

The Commission has further determined to review-in-part the Final ID's findings with respect to the '106 Patent. Specifically, the Commission has determined not to review the Final ID's finding that the asserted claims of the '106 Patent are invalid as indefinite. The Commission has also determined to determine to review the Final ID's findings with respect to obviousness, infringement, and the technical prong of the domestic industry requirement.

The Commission has also determined to review-in-part the Final ID's findings with respect to the '434 Patent. Specifically the Commission has determined to review the Final ID's finding that Sony's accused LTO–7 products do not infringe claim 1 of the '434 Patent. The Commission has also determined to review the Final ID's finding that Fujifilm's LTO–7 DI products do not practice claim 1. The Commission has further determined to review the Final ID's finding that claim 1 is not obvious.

The Commission has further determined to review-in-part the Final ID's findings with respect to the '805 Patent. Specifically, the Commission has determined to review the Final ID's finding that Sony's accused LTO–7 products do not infringe asserted claims 3 and 10 of the '805 Patent. The Commission has also determined to review the Final ID's finding that U.S. Patent No. 6,710,967 (''Hennecken'') does not anticipate claims 3 and 10.

The Commission has also determined review the Final ID's findings that the asserted claims of the '612, '106, and '805 Patents are not essential to the LTO–7 Standard.

The Commission has further determined to review the Final ID's findings concerning the economic prong of the domestic industry.

The Commission has determined not to review the remaining issues decided in the Final ID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. With respect to claim 1 of the '434 patent, please address the proper scope of the limitations ''a power spectrum density at a pitch of 10 micrometers ranges from 800 to 10,000 nm^3 on the magnetic layer surface.'' In particular, please explain whether the entirety of the claimed ''magnetic layer surface'' must exhibit the recited range of power spectrum densities such that a finding of infringement would require that no portion of the claimed ''magnetic layer surface'' exhibits a power spectrum density outside of the claimed range.

2. With respect to claim 1 of the '434 patent, please address the proper scope of the limitations ''a power spectrum density at a pitch of 10 micrometers ranges from 20,000 to 80,000 nm^3 on the backcoat layer surface.'' In particular, please explain whether the entirety of the claimed ''backcoat layer surface'' must exhibit the recited range of power spectrum densities such that a finding of infringement would require that no portion of the claimed ''backcoat layer surface'' exhibits a power spectrum density outside of the claimed range.

3. Please address whether the backcoat layer of the accused products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

4. Please address whether the backcoat layer of the asserted domestic industry products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

5. Please address whether the magnetic layer of the asserted domestic industry products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

6. Please address how the asserted domestic industry products practice the limitation ''a first step of encoding data for specifying a servo band where the servo signal positions'' recited in claims 3 and 10 of the '805 patent and how, or if, that informs whether the accused products infringe that claim limitation.

7. Please provide a comparison of Fujifilm's domestic revenues to its global revenues for the LTO–6 DI Products for fiscal year 2013–2015, and address whether Fujifilm's domestic investments in the LTO–6 are significant in this context.

The parties have been invited to brief only these discrete issues, as enumerated above, with reference to the applicable law and evidentiary record. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation, including the Office of Unfair Import Investigations, are requested to file written submissions on the issues identified in this notice. Parties to the investigation, including the Office of Unfair Import Investigations, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Office of Unfair Import Investigations are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the patents expire, the HTSUS numbers under which the accused products are imported, and any known importers of the accused products. The written submissions and proposed remedial orders must be filed no later than close of business on December 27, 2017. Initial submissions are limited to 50 pages, not including any attachments or exhibits related to discussion of the public interest. Reply submissions must be filed no later than the close of business on January 5, 2018. Reply submissions are limited to 25 pages, not including any attachments or exhibits related to discussion of remedy, the public interest, and bonding. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1012'') 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 (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full

statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All 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 nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission has also determined to extend the target date for completion of the above-captioned investigation to February 20, 2018.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–27168 Filed 12–15–17; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michel P. Toret, M.D.; Decision and Order

On July 13, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Michel P. Toret, M.D. (hereinafter, Applicant) of Jeannette, Pennsylvania. GX 5. The Show Cause Order proposed the denial of Applicant's application for a DEA Certificate of Registration on the ground that Applicant's ''registration is inconsistent with the public interest.'' GX 5, at 1 (citing 21 U.S.C. 823(f)).

As to the Agency's jurisdiction, the Show Cause Order alleged that, on February 14, 2017, Applicant applied for DEA Certificate of Registration. GX 5, at 2. *See also* GX 4 (DEA Form 224 submitted by Applicant).

As the substantive grounds for the proceeding, the Show Cause Order alleged that Applicant was registered with the DEA as a practitioner in schedules II through V pursuant to Certificate of Registration No. AT9432460, and that Applicant surrendered that registration for cause on November 29, 2016. GX 5, at 1. The Show Cause Order further alleged that Applicant ''continued to issue prescriptions for controlled substances'' after he surrendered that DEA registration. GX 5, at 2. According to the Show Cause Order, ''DEA's investigation of . . . [Applicant's] medical practice reveals that . . . [Applicant] issued approximately 17 prescriptions for controlled substances after November 29, 2016 in violation of Federal law.'' *Id.* (citing 21 U.S.C. 841(a) and 843(a)(2)).

The Show Cause Order further alleged that Applicant materially falsified his application for a Certificate of Registration. GX 5, at 2. Specifically, the Show Cause Order alleged that Applicant's material falsification was his having ''answered 'no' when asked, '[h]as the applicant ever surrendered (for cause) or had a federal controlled substance(s) registration revoked, suspended, restricted, or denied, or is any such answer pending.' '' GX 5, at 2. According to the Show Cause Order, ''this answer represents a material falsification on an application for a DEA Registration and, as such, is sufficient for denial of the pending application.'' GX 5, at 2 (citing 21 U.S.C. 843(a)(4) and 824(a)(1)).

The Show Cause Order notified Applicant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. GX 5, at 2 (citing 21 CFR 1301.43). The Show Cause Order also notified Applicant of the opportunity to submit a corrective action plan. GX 5, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

By Declaration dated August 23, 2017, a Diversion Investigator (hereinafter, DI), who described herself as the lead DI assigned to the regulatory matter involving Applicant, stated that, on July 21, 2017, she ''personally served Registrant with a copy of the Order to Show Cause why Registrant's application for a new DEA COR should not be denied.'' GX 6, at 2 (hereinafter, DI Declaration). Based on the Government's sworn statement, I find that the Government's service of the Show Cause Order on Applicant was legally sufficient.

In its Request for Final Agency Action dated August 25, 2017, the Government represented that ''more than thirty days have passed since the Order to Show Cause was served on . . . [Applicant] and no request for hearing or other correspondence has been received by DEA.'' Request for Final Agency Action (hereinafter, RFAA), at 1. The Government requested that Applicant's application for a DEA Certificate of Registration be denied based on Applicant's ''issuing prescriptions without a DEA COR and then committing a material falsification on his subsequent application for a new DEA COR.'' RFAA, at 5.

Based on the Government's sworn statement and written representations, and based on my review of the record, I find that more than 30 days have now passed since the date on which Applicant was served with the Show Cause Order. Further, based on the Government's written representations, I find that neither Applicant, nor anyone purporting to represent him, has requested a hearing, submitted a written statement while waiving Applicant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Applicant has waived his right to a hearing and his right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government. 21 CFR 1301.43(e).

Findings of Fact

Jurisdictional Facts

On or about February 13, 2017, Applicant submitted an application for a DEA registration under the Controlled Substances Act. GX 4. On that application, Applicant certified to the truth and correctness of the information he furnished on the application, including that he never ''surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted or denied.'' *Id.* at 1. Based on the evidence in the record, I find that this certification was false.

Applicant's Voluntary Surrender of His Registration

Applicant, a medical doctor, previously held DEA Certificate of Registration AT9432460, pursuant to which he was authorized to dispense controlled substances in schedules II–V, at the address of Colony Building, 8962 Hill Drive, North Huntingdon, PA 15642. GX 1. On November 29, 2016, Applicant signed a ''Voluntary Surrender of Controlled Substances Privileges,'' Form DEA–104 (hereinafter, Voluntary Surrender Form). GX 2. According to the Voluntary Surrender Form he signed, Applicant ''freely and under no duress, implied or express, execute[d] . . . [the] document and . . . [chose] to take the actions . . . [i]n view of . . . [his] alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of . . . [his] good faith in desiring to remedy any incorrect or unlawful practices.'' *Id.* Applicant's signed Voluntary Surrender Form stated that Applicant voluntarily surrendered his DEA registration certificate, unused order forms, and all controlled substances. *Id.* It also stated that, ''I understand that, beginning on the date that I sign below, I am not authorized to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatsoever.'' *Id.*

The only evidence the Government submitted with its RFAA concerning Applicant's voluntary surrender of his registration was the Voluntary Surrender Form. In other words, the Government did not submit any evidence concerning the events leading up to Applicant's voluntary surrender of his registration, the facts constituting Applicant's ''alleged failure to comply with the Federal requirements pertaining to controlled substances,'' the specific Federal requirements that Applicant was alleged to have violated, or the resolution, if any, of the allegations against Applicant referenced in the Voluntary Surrender Form.

Applicant's Issuance of Controlled Substance Prescriptions After He Voluntarily Surrendered His Registration

According to the Government, after Applicant voluntarily surrendered his DEA registration, Applicant issued 17 prescriptions for controlled substances. GX 5, at 2; GX 3. *See also* GX 6, at 2 (DI Declaration). According to the DI Declaration, GX 3 consisted of copies of the prescriptions Applicant issued after November 29, 2016. GX 6, at 2.

I reviewed each page of GX 3. Based on my review of GX 3, 15 of the pages reflect prescriptions clearly written after November 29, 2016, the date Applicant voluntarily surrendered his DEA registration. GX 3, at 1–8, 10–12, 14–17. Of those 15, 14 clearly concerned at least one controlled substance. *Id.* at 1–3, 5–8, 10–12, 14–17. Based on my review of GX 3, the prescriptions Applicant issued after November 29, 2016 included Suboxone and Subutex, controlled substances in schedule III; Ambien, Tramadol, Lunesta, and Xanax, controlled substances in schedule IV; and Lyrica, a controlled substance in schedule V. *Id.* at 1, 5, 7–8; *id.* at 2, 3, 6, 10, 11, 14–17; and *id.* at 12, respectively.

Thirteen of the pages in GX 3 were written on Applicant's prescription pad and included the number of the registration that Applicant voluntarily surrendered on November 29, 2016. GX 3, at 1, 3–11, 13, 14, 17. Two of the pages in GX 3 were written on Applicant's prescription pad but did not show a DEA registration number on the line after ''DEA #.'' GX 3, at 2, 12. *See* 21 CFR 1306.05(a) (''All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the . . . registration number of the practitioner.''). Two of the pages in GX 3 consisted of ''365 Hospice LLC'' ''Medication Profile'' for patient PS and indicated, in their top right corner, that Applicant issued two ''new'' schedule IV prescriptions for patient PS on December 2nd and 19th, 2016. GX 3, at 15–16.

Based on my review of the Government's evidence, I find that Applicant issued at least 14 controlled substance prescriptions after he voluntarily surrendered his registration on November 29, 2016.

Discussion

Pursuant to section 303(f) of the Controlled Substances Act, hereinafter CSA, ''[t]he Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Section 303(f) further provides that an application for a practitioner's registration may be denied upon a determination that ''the issuance of such registration . . . would be inconsistent with the public interest.'' *Id.* In making the public interest determination, the CSA requires consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003). I ''may rely on any one or a combination of factors and may give each factor the weight [I] deem[ ] appropriate in determining whether . . . an application for registration [should be] denied.'' *Id.* Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one,'' and I ''can 'give each factor the weight . . . [I] determine[ ] is appropriate.' '' *MacKay* v. *Drug Enforcement Admin.,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *Drug Enforcement Admin.,* 567 F.3d 215, 222 (6th Cir. 2009) quoting *Hoxie* v. *Drug Enforcement Admin.,* 419 F.3d 477, 482 (6th Cir. 2005)). In other words, the public interest determination ''is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009).

Pursuant to section 304(a)(1), the Attorney General is also authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). It is well established that the various grounds for revocation or suspension of an existing registration that Congress enumerated in this section are also properly considered in deciding whether to grant or deny an application under section 303. *See Richard J. Settles, D.O.,* 81 FR 64,940, 64,945 (2016); *Arthur H. Bell, D.O.,* 80 FR 50,035, 50,037 (2015); *The Lawsons, Inc.,* 72 FR 74,334, 74,338 (2007); *Samuel S. Jackson, D.D.S.,* 72 FR 23,848, 23,852 (2007); *Alan R. Schankman, M.D.,* 63 FR 45,260, 45,260 (1998); *Kuen H. Chen, M.D.,* 58 FR 65,401, 65,402 (1993). Thus, the allegation that Applicant materially

falsified his application is properly considered in this proceeding. *Richard J. Settles, supra,* 81 FR at 64,945; *Arthur H. Bell, supra,* 80 FR at 50,037; *Samuel S. Jackson, supra,* 72 FR at 23,852. Moreover, just as materially falsifying an application provides a basis for revoking an existing registration without proof of any other misconduct, *see* 21 U.S.C. 824(a)(1), it also provides an independent and adequate ground for denying an application. *Richard J. Settles, supra,* 81 FR at 64,945; *Arthur H. Bell, supra,* 80 FR at 50,037; *The Lawsons, Inc., supra,* 72 FR at 74,338; *Bobby Watts, M.D.,* 58 FR 46,995, 46,995 (1993); *Shannon L. Gallentine, D.P.M.,* 76 FR 45,864, 45,865 (2011).

The Government has the burden of proving that the requirements for a registration are not satisfied. 21 CFR 1301.44(d).

Having considered all of the public interest factors, as well as the separate allegation that Applicant materially falsified his application for a DEA registration, I conclude that the Government has established that the granting of Applicant's application would not be in the public interest because Applicant issued controlled substance prescriptions after he voluntarily surrendered his DEA registration. Accordingly, even though the Government did not submit sufficient evidence to prove that Applicant's false application was ''materially false,'' I will order that Applicant's application be denied.

Acts Inconsistent With the Public Interest Factors

In its Show Cause Order, the Government alleged that Applicant's registration would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(f). As to this allegation, I reviewed the evidence the Government submitted and determined that Applicant issued at least 14 controlled substance prescriptions after he voluntarily surrendered his registration on November 29, 2016. This evidence is properly considered in the public interest determination. 21 U.S.C. 823(f)(2) and (4).

Factors Two and Four—The Registrant's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

The Dispensing Allegations

With limited exceptions not applicable here, ''[e]very person who dispenses . . . any controlled substance . . . shall obtain from the Attorney General a registration.'' 21 U.S.C. 822(a)(2). *See also* 21 U.S.C. 822(b) (authorizing registered persons to prescribe a controlled substance). Further, according to the CSA, it is unlawful for any person knowingly or intentionally to dispense a controlled substance except as authorized by the CSA. 21 U.S.C. 841(a)(1). *See also* 21 U.S.C. 843(a)(2); 21 CFR 1306.03(a)(2).

Factor Two is Applicant's experience in dispensing controlled substances. According to my review of the Government's evidence, Applicant issued at least 14 controlled substance prescriptions after he voluntarily surrendered his registration on November 29, 2016. Applicant's issuance of these controlled substance prescriptions after he voluntarily surrendered his registration was contrary to legal requirements.

Factor Four is Applicant's compliance with applicable State, Federal, or local laws relating to controlled substances. The Government's evidence showed that Applicant issued at least 14 controlled substance prescriptions when Applicant was not registered with the Agency and, thus, in violation of Federal law relating to controlled substances. 21 U.S.C. 841(a)(1); 21 U.S.C. 822(a)(2).

I therefore find that the evidence with respect to Factors Two and Four supports the conclusion that issuing a registration to Applicant ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f).

The Material Falsification Allegation

When Applicant submitted his application for a registration on or about February 13, 2017, he answered ''no'' to whether he had ''ever surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted or denied.'' GX 4, at 1. As found above, this certification was false. The Government alleged that this false certification was ''materially false,'' but the Government did not provide sufficient evidence for a finding of material falsification.

The Supreme Court has held that the ''most common formulation'' of the concept of materiality is that ''a concealment or misrepresentation is material if it 'has a natural tendency to influence, or was capable of influencing, the decision of' the decisionmaking body to which it was addressed.'' *Kungys* v. *United States,* 485 U.S. 759, 770 (1988) (quoting *Weinstock* v. *United States,* 231 F.2d 699, 701 (DC Cir. 1956) (other citation omitted)). The Court explicitly addressed what has ''never been the test of materiality[,] that the misrepresentation or concealment would *more likely than not* have produced an erroneous decision, or even that it would *more likely than not* have triggered an investigation.'' *Kungys, supra,* 485 U.S. at 771. Instead, the Court articulated the specific test as ''whether the misrepresentation or concealment was predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision.'' *Id.*

The Government's only evidence concerning the material falsification allegation was the Voluntary Surrender Form Applicant executed on November 29, 2016. On that Form, Applicant checked the box indicating that he ''freely and under no duress, implied or express, execute[d] . . . [the] document and . . . [chose] to take the actions . . . [i]n view of . . . [his] alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of . . . [his] good faith in desiring to remedy any incorrect or unlawful practices.'' GX 2.

This evidence, alone, is an insufficient basis for a finding of ''material falsification.'' The Voluntary Surrender Form indicated nothing about Applicant's failure to comply with any requirement concerning controlled substances. The Government did not submit any evidence explaining why Government investigators had sought the surrender of Applicant's registration. Applicant's admitting to an ''alleged failure'' to ''comply with Federal requirements pertaining to controlled substances'' indicated nothing about the nature of his ''alleged failure,'' let alone how that ''alleged failure'' was relevant to any of the public interest factors or to any other ground which would support the denial of his application. Thus, Applicant's admission, standing alone, is insufficient for a determination that a ''misrepresentation or concealment was predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision.'' *Kungys, supra,* 485 U.S. at 771.

Accordingly, I find that the Government did not meet its burden of showing that Applicant's false certification constituted a ''material falsification.''

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and 823(f), as well as 28 CFR 0.100(b), I order that Applicant's application for DEA Certificate of Registration be denied. This order is effective January 17, 2018.

Dated: December 1, 2017.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2017–27186 Filed 12–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Crime Data Explorer Feedback Survey

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: Department of Justice (DOJ), Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 day until January 17, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mrs. Amy Blasher, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* Crime Data Explorer Feedback Survey.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form number. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Law enforcement, academia and the general public. Abstract: This survey is needed to collect feedback on the functionality of the CDE in order to make improvements to the application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* UCR Crime Data Explorer Burden Estimation: It is estimated the CDE will generate 200 feedback responses per year with an estimated response time of 2 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 7 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: December 13, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–27183 Filed 12–15–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Postponement of Meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor and Office of the United States Trade Representative, Labor Advisory Committee for Trade Negotiations and Trade Policy.

ACTION: Notice of postponement of meeting.

SUMMARY: Notice is hereby given that a meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy has been postponed until further notice. This meeting, which was closed to the public, was scheduled for December 15, 2017, from 2 p.m. to 4 p.m., at the U.S. Department of Labor, Secretary's Conference Room, 200 Constitution Ave. NW, Washington, DC.

DATES: The meeting scheduled for December 15, 2017, is cancelled.

FOR FURTHER INFORMATION CONTACT: Anne M. Zollner, Chief, Trade Policy and Negotiations Division; Phone: (202) 693–4890.

SUPPLEMENTARY INFORMATION: The original **Federal Register** notice announcing this meeting was published on November 17, 2017, at 82 FR 25011.

Signed at Washington, DC, the 13th day of December 2017.

Martha E. Newton,

Deputy Undersecretary, Bureau of International Labor Affairs.

[FR Doc. 2017–27182 Filed 12–13–17; 4:15 pm]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before January 17, 2018.

ADDRESSES: You may submit your comments, identified by ''docket

number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–021–C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mines: Lowry Mine, MSHA I.D. No. 36–09287 and Heilwood Mine, MSHA I.D. No. 36–09407, located in Indiana County, Pennsylvania; Penfield Mine, MSHA I.D. No. 36–09355, located in Clearfield County, Pennsylvania; and Mine 78, MSHA I.D. No. 36–09371, located in Somerset County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), 18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests the previously granted petition for modification, docket number M–2010–023–C be amended to add Fletcher Tilt Head Truss Bolters. The petitioner states that:

(1) Rosebud's original proposal was to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 American Wire Gauge (AWG) cable was used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable was used on Fletcher Roof Ranger II roof bolters.

(2) Rosebud is now requesting that Fletcher Tilt Head Truss Bolters be added to the original granted petition. The Fletcher Tilt Head Truss Bolters use the same No. 2 AWG 480 volt training cables as approved on the bolters listed in the previously granted petition, docket number M–2010–023–C.

(3) The petitioner proposes to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 AWG cable is used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable is used on Fletcher Tilt Head Truss Bolters using the following procedures:

(1) The trailing cable for the 480 volt Fletcher Tilt Head Truss Bolters will not be smaller than No. 4 AWG cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers will be sealed to insure that the settings on these breakers cannot be changed, and the breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the cables as listed above.

(3) Replacement circuit breakers and/or instantaneous trip units, used to protect No. 2 AWG trailing cable or the No. 4 AWG trailing cable will be calibrated to trip at 500 amperes, and will be sealed.

(4) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) During each production day, the trailing cables, and circuit breakers will be examined in accordance with all 30 CFR provisions.

(6) Permanent warning labels will be installed and maintained on the load center identifying the location of each short-circuit protection device. The labels will warn miners not to change or alter the settings of these devices.

(7) If the affected trailing cables are damaged in any way during the shift, the cable will be deenergized and repairs made.

(8) The petitioner's alternative method will not be implemented until all miners who have been designated to operate the Fletcher Tilt Head Truss Bolter, or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.

(9) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for the approved 30 CFR part 48 training plan to the District Manager. The proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating condition and verify the short-circuit settings of the circuit interrupting device(s) that protect the affected trailing cables do not exceed the specified setting(s) in Item No. 4. The training will include the following:

a. The hazards of setting the short-circuit device(s) too high to adequately protect the trailing cables.

b. How to verify that the circuit interrupting device(s) protecting the trailing cable(s) is properly set and maintained.

c. Mining methods and operating procedures that will protect the trailing cables against damage.

d. The proper procedure for examining the trailing cable to ensure that the cable(s) is in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, and nicks and abrasions.

The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–022–C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mines: Bergholz Mine, MSHA I.D. No. 33–04565, located in Jefferson County, Ohio; Harmony Mine, MSHA I.D. No. 36–09477, located in Clearfield County,

Pennsylvania; Dutch Run Mine, MSHA I.D. No. 36–08701, Darmac #2 Mine, MSHA I.D. No. 36–08135, and Logansport Mine, MSHA I.D. No. 36–08841, located in Armstrong County, Pennsylvania; Knob Creek Mine, MSHA I.D. No. 36–09394, located in Indiana County, Pennsylvania; and Tusky Mine, MSHA I.D. No. 33–04509, located in Tuscarawas County, Ohio.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), 18.35(a)(5)(i) (Portable (trailing) cables and cords).

Modification Request: The petitioner requests the previously granted petition for modification, docket number M–2011–007–C be amended to add Fletcher Tilt Head Truss Bolters. The petitioner states that:

(1) Rosebud's original proposal was to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 American Wire Gauge (AWG) cable was used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable was used on Fletcher Roof Ranger II roof bolters.

(2) Rosebud is now requesting that Fletcher Tilt Head Truss Bolters be added to the original granted petition. The Fletcher Tilt Head Truss Bolters use the same No. 2 AWG 480 volt training cables as approved on the bolters listed in the previously granted petition, docket number M–2011–007–C.

(3) The petitioner proposes to use 480 volt trailing cables with a maximum length of 1200 feet when No. 2 AWG cable is used and 480 volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable is used on Fletcher Tilt Head Truss Bolters using the following procedures:

(1) The trailing cable for the 480 volt Fletcher Tilt Head Truss Bolters will not be smaller than No. 4 AWG cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers will be sealed to insure that the settings on these breakers cannot be changed, and the breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the cables as listed above.

(3) Replacement circuit breakers and/or instantaneous trip units, used to protect No. 2 AWG trailing cable or the No. 4 AWG trailing cable will be calibrated to trip at 500 amperes, and will be sealed.

(4) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) During each production day, the trailing cables and circuit breakers will be examined in accordance with all 30 CFR provisions.

(6) Permanent warning labels will be installed and maintained on the load center identifying the location of each short-circuit protection device. The labels will warn miners not to change or alter the settings of these devices.

(7) If the affected trailing cables are damaged in any way during the shift, the cable will be deenergized and repairs made.

(8) The petitioner's alternative method will not be implemented until all miners who have been designated to operate the Fletcher Tilt Head Truss Bolter or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.

(9) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for the approved 30 CFR part 48 training plan to the District Manager. The proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating condition and verify the short-circuit settings of the circuit interrupting device(s) that protect the affected trailing cables do not exceed the specified setting(s) in Item No. 4. The training will include the following:

a. The hazards of setting the short-circuit device(s) too high to adequately protect the trailing cables.

b. How to verify that the circuit interrupting device(s) protecting the trailing cable(s) is properly set and maintained.

c. Mining methods and operating procedures that will protect the trailing cables against damage.

d. The proper procedure for examining the trailing cable to ensure that the cable(s) is in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, and nicks and abrasions.

The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–023–C.

Petitioner: Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah.

Mine: Emery Mine, MSHA I.D. No. 42–00079, located in Emery County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible electronic testing or diagnostic equipment within 150 feet of pillar workings. The petitioner states that:

(1) The use of nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment will be limited to: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; voltage, current, and power measurement recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic tachometers; and nonpermissible surveying equipment. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Office.

(2) Nonpermissible testing and diagnostic equipment will be used only when equivalent permissible equipment does not exist.

(3) All other test and diagnostic equipment used within 150 feet of pillar workings will be permissible.

(4) All nonpermissible electronic testing and diagnostic equipment used within 150 feet of pillar workings or longwall faces will be examined by a qualified person, as defined in 30 CFR 75.153, prior to being used to ensure the equipment is being maintained in safe operating condition. These examinations results will be recorded in the weekly examination of electrical equipment book and will be made available to MSHA and the miners at the mine.

(5) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings. The results of such examination(s) will be recorded as a special examination in the on-shift examination record books immediately after the shift on which the examination(s) were performed.

(6) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When a 1.0 percent or more methane concentration is detected while the

nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and withdrawn to fresh air (intake air entry) more than 150 feet outby pillar workings.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(8) Except for the time necessary to troubleshoot under actual mining conditions, coal production in the longwall section will cease. However, coal may remain in or on the equipment such as the pan line in order to test and diagnose the equipment under ''load.''

(9) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(10) All electronic testing and diagnostic equipment will be used in accordance with manufacturer's recommended safe use practices.

(11) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

(12) The petitioner will notify MSHA before nonpermissible electronic testing and diagnostic equipment is used within 150 feet of pillar workings. The notice will advise MSHA when any nonpermissible electronic testing and diagnostic equipment is put in service and give MSHA the opportunity to inspect such equipment before being used.

(13) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–005–M.

Petitioner: Ernie Peachay, One Arizona Center, 400 East Van Buren Street, Suite 1900, Phoenix, AZ 85004–2202.

Mine: Old Smith Family Mine, Second Divide, Downieville, California 95936, MSHA I.D. No. 04–05820, located in Sierra County, California.

Regulation Affected: 30 CFR 57.4533 (Mine opening vicinity).

Modification Request: The petitioner requests a modification of the existing standard to the Old Smith Family Mine. A small underground gold mine established in the early 1930s. The petitioner states that:

(1) In lieu of the application of 30 CFR 57.4533 to the site, the petitioner proposes to install battery operated smoke alarms in the mine office and shed and to wire them to an alarm underground that will sound so as to immediately notify him of a surface fire in one of the buildings so that he may immediately exit the underground workings.

(2) The mine office and shed are historical structures that were built in the 1930s to support mining activities at the Old Smith Family Mine.

(3) It is not feasible to move these structures to further than 100 feet from the raises, or to meet the construction requirements of the standard. A fire suppression system would also be ineffective due to the freezing temperatures in the winter which disables the few water pipes on site.

(4) The standard as applied to this site provides little to no benefit for underground miner safety because the mine is located in a heavily forested area with trees as tall as 300 feet on the site. The small buildings at issue are dwarfed by the surrounding forest, which cannot be fireproofed.

(5) The underground workings are no more than 125 feet deep at the deepest point, and are so small that they can be evacuated from any point via one of 3 routes in less than 1 minute.

(6) To further reduce the risk of a surface fire impacting the petitioner when underground, smoking will be prohibited in all areas of the mine, and signs will be posted to provide notice to any third parties who may come onsite while he is underground.

(7) The modification to the standard as applied to the Old Smith Family Mine will provide greater safety protection than 30 CFR 57.4533 with respect to the hazard of surface fire impacting underground escapeways by providing an alarm sounding underground as soon as smoke detectors are triggered in the mine office or shed.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–27121 Filed 12–15–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before January 17, 2018.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or

other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–003–M.

Petitioner: Klondex Midas Operations, Inc., 13330 California Street, Suite 200, Omaha, Nebraska 68154.

Mine: Midas Mine, MSHA I.D. No. 26–02314, located in Elko County, Nevada.

Regulation Affected: 30 CFR 57.18025 (Working alone).

Modification Request: The petitioner requests a modification of 30 CFR 57.18025, (Working Alone standard) to the routine operation of jackleg drills at petitioner's Midas Mine.

For the reasons described below, the petitioner requests a modification of the application of the Working Alone standard to the extent that MSHA will permit jackleg drill operators to work alone so long as they do not encounter hazardous conditions above and beyond routine mining conditions. In addition, because MSHA's inconsistent application of the Working Alone standard to the petitioner's mines results in a diminution of safety, the petitioner requests that MSHA grant a modification from the Working Alone standard to allow miners to conduct routine jackleg drilling operations independently as they have in the past. Alternatively, the petitioner requests a modification of the Working Alone standard to accept the petitioner's proposed safety practices, described below, as an alternative and equally protective method of achieving the same result as the standard.

The petitioner states that:

(1) The petitioner owns and operates the Midas Mine, an underground narrow vein gold mine in Elko County, Nevada. It began operating Midas in early 2014. The petitioner owns and operates the Fire Creek Mine, an underground narrow vein gold mine in Lander County, Nevada. Both companies' ultimate corporate parent is Klondex Mines Ltd.

Generally, the mining cycle at both mines involves a miner drilling holes in the face, loading those holes with explosives, blasting, mucking out the debris from the blasting, bolting the roof, and repeating the cycle by drilling holes again, this time in a face that is a few feet farther into the heading. For short periods of time during this cycle, the miner uses a jackleg drill for drilling holes in the face and to bolt the roof.

(2) The petitioner states that jackleg drills are a routine mining tool used safely every day. A jackleg drill is a widely-used portable rock drill designed for one-person operations. The single leg rests on the ground, secured into the mine floor with a ''claw foot'' that digs into the leveled floor. For drilling, it uses a long, smooth drill steel with a drill bit attached at the end. Compressed air powers the rotation and percussion of the drill steel and the up-and-down movement to extend or retract the pneumatic leg. A miner opens a throttle valve on the drill's main body to allow air to flow into the machine. The air not only drives the machine's operation but also flows through the steel and bit to prevent the bit from clogging with rock and dirt.

There is a safe and proper way to maintain and handle a jackleg drill. An experienced jackleg drill operator handles the drill in a way that requires less effort and poses little risk of serious injury. Experienced miners rarely pinch their fingers in the hinge where the drill's body meets its leg and do not wear loose clothing that could catch in moving parts. Proper drill positioning, examinations of ground conditions, and scaling prevent hazardous ground from falling when drilling up into the roof to bolt. Jackleg drills have been used daily in many mines for decades. The petitioner trains its miners to operate jackleg drills safely and ensures its miners utilize the proper personal protective equipment (PPE) during all steps of the mining process.

(3) During a typical shift, miners use jackleg drills for short periods of time and are in frequent contact with others. Miners at the Klondex mines typically work 12-hour shifts. The first hour is typically spent attending a supervisor-led safety meeting where miners receive their crew assignments and work area assignments, and travel to the faces where they will work. The miners will typically stop mining and leave the work area to travel back to the surface 30 to 60 minutes before their shifts are complete. Consequently, a miner will generally spend only 10 to 10½ hours of his or her shift actually performing mining work. Some of the miner's time is also spent away from the working face, to travel to the main heading or supply areas for supplies, to take periodic breaks, to offer assistance to others, or to eat lunch.

During his or her shift, a single miner will typically complete approximately one to two full mining cycles, depending on the amount of assistance the miner receives from others, as well as the conditions encountered during mining. Each shift hands off to the next shift; the miner will begin work starting at whatever point in the cycle the previous crew stopped.

While miners often work independently, they are rarely alone for long. Throughout a shift, various people will visit a miner at the face multiple times. For example, the crew supervisor (''foreman'' or ''shifter'') is tasked with visiting each miner at least twice per shift and sometimes visits more often. While there, the supervisor reviews and signs the miner's workplace examination card. Geologists also usually visit each heading at least once per shift, typically to take samples for assay and to paint the face before each round of blasting. Other miners, and sometimes the supervisor, may also stop by regularly to deliver bolting, blasting, and other supplies, as well as to muck out nearby muck bays.

(4) The petitioner has safety and training policies in place to ensure that miners approach potential hazards and handle equipment, such as drills, safely. Employees must follow petitioner's Employee Health and Safety Manual's requirements to protect against injuries while mining. For instance, miners must wear PPE equipment while operating a jackleg drill and may not wear loose, baggy, or ragged clothing. They must also keep their work areas neat and clean.

Furthermore, miners must evaluate their work area for hazards before they begin each task. When miners encounter a hazard, they must stop work, identify how to address or correct the hazard, report the hazard, and come up with a plan to address the hazard safely. Such a plan will require increased contact with others that is commensurate with the hazard or, if necessary, ceasing work in the area. Supervisors observe a miner's work area at least once daily and fill out a five-point safety card with each miner. This procedure further ensures that potential hazards are identified.

The petitioner's robust safety program also deals with all facets of operating jackleg drills and working alone. All miners must complete training and demonstrate core competencies before they operate a jackleg drill. Miners also receive annual refresher training, which includes topics relevant to drilling, such as keeping workplaces neat and orderly,

performing workplace examinations, drilling with secure footing, recognizing and addressing potentially hazardous ground conditions, avoiding pinch points, and responding to hazardous conditions.

(5) The petitioner states that the current communications with miners operating the jackleg drills fully comply with the standard.

The petitioner states that at its mines, a miner operates a jackleg drill for less than 33 percent of the miners' total shift time and that the miner has regular contact with others throughout the shift. Indeed, multiple individuals—supervisors, geologists, and fellow miners—visit the miner at the face, and the miner sees others when leaving the face multiple times each shift. The miner has further contact via mine phones and radios multiple times throughout the shift.

As stated above, miners are in regular contact with others throughout the mining cycle. Consequently, MSHA should modify the application of the Working Alone standard so that the petitioner's current level of communications easily meets the rule's legal standard, and miners may continue to work independently.

(6) The petitioner states that MSHA's requirement that miners use a jackleg drill in pairs results in a diminution of safety. It has been common practice within the mining industry for jackleg drill operators to work alone if there are not hazardous conditions present. The petitioner states however, that working in pairs reduces safety because the drill operator now not only must worry about handling and operating the drill safely for his own welfare, but must also worry about the whereabouts and exposure of the second person working with the drill operator.

(7) The jackleg drill is designed for one person to operate the machine. It is primarily intended for use where the size and configuration of the ore body or the mining method do not permit large openings to be mined with heavier mechanized equipment. Both the petitioner's mines use jackleg drills precisely because of the relatively small size of the mining face. By requiring the introduction of another person into a small area during drill operation (as opposed to other purposes, such as bringing supplies or checking geology), the field operations becomes more crowded and complicated and the chance of injury necessarily increases, particularly because the second person is not in control of the drill. This is not unique to jackleg drills; it is a danger inherent any time the number of people increases in a small area working around mechanized equipment.

However, there may be circumstances under which a second person in the area could be helpful or, perhaps, even improve safety. The petitioner states that both the Working Alone standard, and the petitioner's safety protocols, account for such situations at petitioner's mines, if jackleg drill operators encounter hazardous conditions, they must seek assistance from their supervisors or a fellow miner and communicate in a manner that is commensurate with the hazard as the Working Alone standard requires. However, the petitioner states that MSHA's own data demonstrates that by requiring mines to ''pair up'' and work within a certain distance of each other no matter the circumstances, increases the safety risks to other miners.

The petitioner requests that MSHA grant a modification from the Working Alone standard to allow miners to conduct routine jackleg drilling operations independently as they have in the past because MSHA's application of the Working Alone standard to the petitioner's mines is actually less safe.

(8) In the alternative, the petitioner seeks modification of the Working Alone standard to permit miners working alone as long as they follow a new communications policy that will help achieve the same result as the standard intends with the same or better protection. The petitioner seeks a modification of the standard that would permit underground miners to work alone, including operating jackleg drills, so long as the miners notifies a dispatcher or other designated contact person before beginning each stage of the mining cycle.

The petitioner states that its proposed alternative is at least as safe as the Working Alone standard. By requiring its miners to report in to a dispatcher or other designated contact at the beginning of each of the four stages of the mining cycle, such a protocol adds yet one more layer of communication and regular, dependable contact between the miner and others. Combined with the regular visits each underground miner receives from other miners, geologists, and his or her supervisor throughout a shift, as well as the miner's own travels away from the face to access supplies and equipment, such an approach reinforces that miners performing routing mining activity are adequately protected.

(9) The petitioner asserts that application of the standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–004–M.

Petitioner: Klondex Gold and Silver Mining Company, 13330 California Street, Suite 200, Omaha, Nebraska 68154.

Mine: Fire Creek Mine, MSHA I.D. No. 26–02691, located in Lander County, Nevada.

Regulation Affected: 30 CFR 57.18025 (Working alone).

Modification Request: The petitioner requests a modification of 30 CFR 57.18025, (Working Alone standard) to the routine operation of jackleg drills at petitioner's Fire Creek Mine.

For the reasons described below, the petitioner requests a modification of the application of the Working Alone standard to the extent that MSHA will permit jackleg drill operators to work alone so long as they do not encounter hazardous conditions above and beyond routine mining conditions. In addition, because MSHA's inconsistent application of the Working Alone standard to the petitioner's mines results in a diminution of safety, the petitioner requests that MSHA grant a modification from the Working Alone standard to allow miners to conduct routine jackleg drilling operations independently as they have in the past. Alternatively, the petitioner requests a modification of the Working Alone standard to accept the petitioner's proposed safety practices, described below, as an alternative and equally protective method of achieving the same result as the standard.

The petitioner states that:

(1) The petitioner owns and operates the Midas Mine, an underground narrow vein gold mine in Elko County, Nevada. It began operating Midas in early 2014. The petitioner owns and operates the Fire Creek Mine, an underground narrow vein gold mine in Lander County, Nevada. Both companies' ultimate corporate parent is Klondex Mines Ltd.

Generally, the mining cycle at both mines involves a miner drilling holes in the face, loading those holes with explosives, blasting, mucking out the debris from the blasting, bolting the roof, and repeating the cycle by drilling holes again, this time in a face that is a few feet farther into the heading. For short periods of time during this cycle, the miner uses a jackleg drill for drilling holes in the face and to bolt the roof.

(2) The petitioner states that jackleg drills are a routine mining tool used safely every day. A jackleg drill is a widely-used portable rock drill designed for one-person operations. The single leg rests on the ground, secured into the

mine floor with a ''claw foot'' that digs into the leveled floor. For drilling, it uses a long, smooth drill steel with a drill bit attached at the end. Compressed air powers the rotation and percussion of the drill steel and the up-and-down movement to extend or retract the pneumatic leg. A miner opens a throttle valve on the drill's main body to allow air to flow into the machine. The air not only drives the machine's operation but also flows through the steel and bit to prevent the bit from clogging with rock and dirt.

There is a safe and proper way to maintain and handle a jackleg drill. An experienced jackleg drill operator handles the drill in a way that requires less effort and poses little risk of serious injury. Experienced miners rarely pinch their fingers in the hinge where the drill's body meets its leg and do not wear loose clothing that could catch in moving parts. Proper drill positioning, examinations of ground conditions, and scaling prevent hazardous ground from falling when drilling up into the roof to bolt. Jackleg drills have been used daily in many mines for decades. The petitioner trains its miners to operate jackleg drills safely and ensures its miners utilize the proper personal protective equipment (PPE) during all steps of the mining process.

(3) During a typical shift, miners use jackleg drills for short periods of time and are in frequent contact with others. Miners at the Klondex mines typically work 12-hour shifts. The first hour is typically spent attending a supervisor-led safety meeting where miners receive their crew assignments and work area assignments, and travel to the faces where they will work. The miners will typically stop mining and leave the work area to travel back to the surface 30 to 60 minutes before their shifts are complete. Consequently, a miner will generally spend only 10 to 10½ hours of his or her shift actually performing mining work. Some of the miner's time is also spent away from the working face, to travel to the main heading or supply areas for supplies, to take periodic breaks, to offer assistance to others, or to eat lunch.

During his or her shift, a single miner will typically complete approximately one to two full mining cycles, depending on the amount of assistance the miner receives from others, as well as the conditions encountered during mining. Each shift hands off to the next shift; the miner will begin work starting at whatever point in the cycle the previous crew stopped.

While miners often work independently, they are rarely alone for long. Throughout a shift, various people will visit a miner at the face multiple times. For example, the crew supervisor (''foreman'' or ''shifter'') is tasked with visiting each miner at least twice per shift and sometimes visits more often. While there, the supervisor reviews and signs the miner's workplace examination card. Geologists also usually visit each heading at least once per shift, typically to take samples for assay and to paint the face before each round of blasting. Other miners, and sometimes the supervisor, may also stop by regularly to deliver bolting, blasting, and other supplies, as well as to muck out nearby muck bays.

(4) The petitioner has safety and training policies in place to ensure that miners approach potential hazards and handle equipment, such as drills, safely. Employees must follow petitioner's Employee Health and Safety Manual's requirements to protect against injuries while mining. For instance, miners must wear PPE equipment while operating a jackleg drill and may not wear loose, baggy, or ragged clothing. They must also keep their work areas neat and clean.

Furthermore, miners must evaluate their work area for hazards before they begin each task. When miners encounter a hazard, they must stop work, identify how to address or correct the hazard, report the hazard, and come up with a plan to address the hazard safely. Such a plan will require increased contact with others that is commensurate with the hazard or, if necessary, ceasing work in the area. Supervisors observe a miner's work area at least once daily and fill out a five-point safety card with each miner. This procedure further ensures that potential hazards are identified.

The petitioner's robust safety program also deals with all facets of operating jackleg drills and working alone. All miners must complete training and demonstrate core competencies before they operate a jackleg drill. Miners also receive annual refresher training, which includes topics relevant to drilling, such as keeping workplaces neat and orderly, performing workplace examinations, drilling with secure footing, recognizing and addressing potentially hazardous ground conditions, avoiding pinch points, and responding to hazardous conditions.

(5) The petitioner states that the current communications with miners operating the jackleg drills fully comply with the standard.

The petitioner states that at its mines, a miner operates a jackleg drill for less than 33 percent of the miners' total shift time and that the miner has regular contact with others throughout the shift. Indeed, multiple individuals—supervisors, geologists, and fellow miners—visit the miner at the face, and the miner sees others when leaving the face multiple times each shift. The miner has further contact via mine phones and radios multiple times throughout the shift.

As stated above, miners are in regular contact with others throughout the mining cycle. Consequently, MSHA should modify the application of the Working Alone standard so that the petitioner's current level of communications easily meets the rule's legal standard, and miners may continue to work independently.

(6) The petitioner states that MSHA's requirement that miners use a jackleg drill in pairs results in a diminution of safety. It has been common practice within the mining industry for jackleg drill operators to work alone if there are not hazardous conditions present. The petitioner states however, that working in pairs reduces safety because the drill operator now not only must worry about handling and operating the drill safely for his own welfare, but must also worry about the whereabouts and exposure of the second person working with the drill operator.

(7) The jackleg drill is designed for one person to operate the machine. It is primarily intended for use where the size and configuration of the ore body or the mining method do not permit large openings to be mined with heavier mechanized equipment. Both the petitioner's mines use jackleg drills precisely because of the relatively small size of the mining face. By requiring the introduction of another person into a small area during drill operation (as opposed to other purposes, such as bringing supplies or checking geology), the field operations becomes more crowded and complicated and the chance of injury necessarily increases, particularly because the second person is not in control of the drill. This is not unique to jackleg drills; it is a danger inherent any time the number of people increases in a small area working around mechanized equipment.

However, there may be circumstances under which a second person in the area could be helpful or, perhaps, even improve safety. The petitioner states that both the Working Alone standard, and the petitioner's safety protocols, account for such situations at petitioner's mines, if jackleg drill operators encounter hazardous conditions, they must seek assistance from their supervisors or a fellow miner and communicate in a manner that is commensurate with the hazard as the Working Alone standard requires.

However, the petitioner states that MSHA's own data demonstrates that by requiring mines to ''pair up'' and work within a certain distance of each other no matter the circumstances, increases the safety risks to other miners.

The petitioner requests that MSHA grant a modification from the Working Alone standard to allow miners to conduct routine jackleg drilling operations independently as they have in the past because MSHA's application of the Working Alone standard to the petitioner's mines is actually less safe.

(8) In the alternative, the petitioner seeks modification of the Working Alone standard to permit miners working alone as long as they follow a new communications policy that will help achieve the same result as the standard intends with the same or better protection. The petitioner seeks a modification of the standard that would permit underground miners to work alone, including operating jackleg drills, so long as the miners notifies a dispatcher or other designated contact person before beginning each stage of the mining cycle.

The petitioner states that its proposed alternative is at least as safe as the Working Alone standard. By requiring its miners to report in to a dispatcher or other designated contact at the beginning of each of the four stages of the mining cycle, such a protocol adds yet one more layer of communication and regular, dependable contact between the miner and others. Combined with the regular visits each underground miner receives from other miners, geologists, and his or her supervisor throughout a shift, as well as the miner's own travels away from the face to access supplies and equipment, such an approach reinforces that miners performing routing mining activity are adequately protected.

(9) The petitioner asserts that application of the standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–27120 Filed 12–15–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

Canadian Standards Association: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Canadian Standards Association (CSA) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before January 2, 2018.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0042, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210; telephone (202) 693–2350 or TTY number (877) 889–5627. Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–3:00 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0042). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before January 2, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that CSA is applying for expansion of its current recognition as a NRTL. CSA requests the addition of seven test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR

1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA currently has seven facilities (sites) recognized by OSHA for product testing and certification. Its headquarters location is Canadian Standards Association, 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3, Canada. A complete list of CSA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/csa.html.*

II. General Background on the Application

CSA submitted an application, dated May 23, 2017 (OSHA–2006–0042–0010), to expand its recognition to include seven additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in CSA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test Standard	Test Standard Title
UL 498A *	Current Taps and Adapters.
UL 508A	Standard for Industrial Control Panels.
UL 60950–1	Information Technology Equipment—Safety—Part 1: General Requirements.
UL 60950–21	Information Technology Equipment—Safety—Part 21: Remote Power Feeding.
UL 60950–23	Information Technology Equipment—Safety—Part 23: Large Data Storage Equipment.
UL 61800–5–1	Standard for Adjustable Speed Electrical Power Drive Systems Part 5–1: Safety Requirements—Electrical, Thermal and Energy.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards

III. Proposal To Add New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications).

In this notice, OSHA proposes to add one new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard that are new to the NRTL Program. OSHA preliminarily determined that this test standard is an appropriate test standard and proposes to include it in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARD OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test Standard	Test Standard Title
UL 498A	Current Taps and Adapters

IV. Preliminary Findings on the Application

CSA submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that CSA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these seven test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of CSA's application.

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant CSA's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other

proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on December 11, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–27122 Filed 12–15–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of MET Laboratories, Inc. (MET) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the applications.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before January 2, 2018.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–3:00 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before January 2, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; phone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; phone: (202) 693–2110; email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that MET Laboratories, Inc. MET, is applying for expansion of its current recognition as a NRTL. MET requests the addition of four test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters location: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/met.html.*

II. General Background on the Application

MET submitted four applications, one dated July 7, 2015 (OSHA–2006–0028–0037), two dated December 14, 2016 (OSHA–2006–0028–0038 and OSHA–2006–0028–0039), and a fourth dated January 11, 2017 (OSHA–2006–0028–0040), to expand its recognition to include four additional test standards. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

Table 1 below lists the appropriate test standards found in MET's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 50E	Enclosures for Electrical Equipment, Environmental Considerations.
UL 60079–1	Standard for Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d''.
UL 60335–2–40	Household and Similar Electrical Appliances—Safety—Part 2–40: Particular Requirements for Electrical Heat Pumps, Air Conditioners and Dehumidifiers.
UL 61800–5–1	Standard for Adjustable Speed Electrical Power Drive Systems—Part 5–1: Safety Requirements—Electrical, Thermal and Energy.

III. Preliminary Findings on the Application

MET submitted acceptable applications for expansion of its scope of recognition. OSHA's review of the application file, and pertinent information, indicate that MET can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these four test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of MET's applications.

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3655, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0028.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant MET's applications for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on December 11, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–27123 Filed 12–15–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (17–088)]

NASA Federal Advisory Committees; Public Nominations

AGENCY: National Aeronautics and Space Administration.

ACTION: Invitation for Public Nominations of U.S. Citizens for Potential Service on the National Space Council Users' Advisory Group.

REF: **Federal Register**, Vol. 82, No. 237, Tuesday, December 12, 2017, 58452. National Aeronautics and Space Administration; Notice 17–088; National Space Council Users' Advisory Group; Establishment.

SUMMARY: Further to the NASA **Federal Register** notice of December 12, 2017 (see citation above), NASA announces an invitation for public nominations of U.S. citizens to serve as potential members of the National Space Council Users' Advisory Group (UAG). The UAG is a new Federal advisory committee under the Federal Advisory Committee Act (FACA) being established pursuant to the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Pub. L. 101–611, Section 121) and Executive Order 13803, Section 6 (''Reviving the National Space Council'') signed by the President on June 30, 2017. The UAG is purely advisory and will ensure that the interests of industry and other non-Federal entities are adequately represented in the deliberations of the National Space Council. NASA is sponsoring the UAG on behalf of the National Space Council, an Executive Branch interagency coordinating committee chaired by the Vice President, which is tasked with advising and assisting the President on national space policy and strategy. Members of the UAG will serve either as ''Representatives'' (representing industry, other non-Federal entities, and other recognizable groups of persons involved in aeronautical and space activities), or as ''Special Government Employees'' (individual subject matter experts or consultants).

Deadline: The deadline for NASA to receive all public nominations is January 10, 2018.

Instructions for Public Nominations: U.S. citizens or organizations may nominate individuals for consideration as potential members of the UAG. Interested candidates may also self-nominate. The candidate must be a U.S. citizen, may not be a regular government employee, and must not be registered by the Department of Justice

under the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.* Additionally, a candidate for a Special Government Employee appointment must not be federally registered as a lobbyist under the Lobbying Disclosure Act of 1995, 2 U.S.C. 1602, as amended. Nominations must be contained in an email to NASA attaching the required documents. All nominations should include a cover letter, a resume (including contact information for the individual) and a professional biography demonstrating professional stature, knowledge and experience commensurate with achieving the UAG's purpose as set forth in Public Law 101–611, Section 121. Each document must not exceed one page. The cover letter must be a signed letter saved as a PDF file, indicate the category of membership for which the individual is being nominated (''Representative'' or ''Special Government Employee''), and contain an affirmative statement that the individual meets all aforesaid requirements. Cover letters for Representative nominations must also indicate why the individual should be considered for membership relative to the UAG's representational objectives, and be on the supporting organization's letterhead. Cover letters for Special Government Employee nominations must also identify the subject area(s) where the individual's expertise and/or consultative stature is nationally recognized relative to the UAG's advisory objectives. Nominations must be submitted in a single email attaching the cover letter, resume, and professional biography to *HQ-UAGnoms@nasa.gov.* Hard copies such as paper documents sent through postal mail will not be accepted.

Privacy Act Notification: The information provided in response to this announcement will support membership selection of the National Space Council Users' Advisory Group (UAG). Its collection is authorized by the Federal Advisory Committee Act (FACA), Public Law 92–463, 5 U.S.C. App., as amended; 5 U.S.C. 3109; Title V of Public Law 100–685; Public Law 101–611, Section 121; Executive Order 13803 of June 30, 2017, Section 6; and 44 U.S.C. 3101. Providing this information is voluntary, but not providing it or not providing it as requested may result in information or an individual not being considered in the UAG membership selection process. NASA may share this information for authorized purposes consistent with the purpose for which it is collected. Elaboration and conditions of information disclosure may be found under ''Routine Uses'' of the full System of Records Notice for System 10SPER, ''Special Personnel Records'' (15–118, 81 FR 10, pp. 2244–2247) at *https://www.gpo.gov/fdsys/pkg/FR-2016-01-15/pdf/2016-00689.pdf* and in Appendix B (11–091, 76 FR 200, pp. 64112–64114) at *https://www.gpo.gov/fdsys/pkg/FR-2011-10-17/pdf/2011-26731.pdf.*

FOR FURTHER INFORMATION CONTACT: For any questions, please contact the UAG Designated Federal Officer/Executive Secretary, Dr. Jeff Waksman, Office of the Administrator, NASA Headquarters, Washington, DC 20546, email: *jeff.l.waksman@nasa.gov;* phone: 202–358–3758.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–27211 Filed 12–15–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On October 26, 2017 the National Science Foundation published a notice in the **Federal Register** of a permit modification request received. The permit modification was issued on December 13, 2017 to: David W. Johnston, Permit No. 2017–034.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–27210 Filed 12–15–17; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–275; CP2018–85]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 20, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states

concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–275; *Filing Title:* USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 52, Filed Under Seal; *Filing Acceptance Date:* December 12, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 20, 2017.

2. *Docket No(s).:* CP2018–85; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 20, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–27192 Filed 12–15–17; 8:45 am]

BILLING CODE 7710–FW–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):* December 18, 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 December 13, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 389 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–54, CP2018–87.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27201 Filed 12–15–17; 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):* December 18, 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 December 13, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 388 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–53, CP2018–86.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27200 Filed 12–15–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82295; File No. SR–NYSEArca–2017–56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To List and Trade Shares of Twelve Series of Investment Company Units Pursuant to NYSE Arca Rule 5.2–E(j)(3)

December 12, 2017.

I. Introduction

On June 19, 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, pursuant to NYSE Arca Rule 5.2–E(j)(3), shares of 12 index-based funds (''Shares''). The proposed rule change was published for comment in the **Federal Register** on July 7, 2017.[3] On August 7, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change as originally filed.[4] On August 15, 2017, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On October 2, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[8] The Commission received seven comments letters on the proposed rule change, including one from the Exchange.[9] On November 3,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81062 (June 30, 2017), 82 FR 31651.

[4] Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nysearca-2017-56/nysearca201756-2199657-160352.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 81400, 82 FR 39643 (August 21, 2017). The Commission designated October 5, 2017, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 81794, 82 FR 46870 (October 6, 2017).

[9] *See* letters from: (1) Douglas M. Yones, Head of Exchange Traded Products, New York Stock Exchange, to Brent J. Fields, Secretary, Commission, dated October 6, 2017 (''Exchange Letter''); (2) Samara Cohen, Managing Director, U.S. Head of iShares Capital Markets, Joanne Medero, Managing Director, Government Relations & Public Policy, and Deepa Damre, Managing Director, Legal & Compliance, BlackRock, Inc., to Brent J. Fields, Secretary, Commission, dated October 18, 2017 (''BlackRock Letter''); (3) Anna Paglia, Head of Legal, Invesco PowerShares Capital Management LLC, to Brent J. Fields, Secretary, Commission, dated October 18, 2017 (''Invesco Letter''); (4) Dorothy Donohue, Acting General Counsel, Investment Company Institute, to Brent J. Fields, Secretary, Commission, dated October 18, 2017 (''ICI Letter''); (5) Jonathan R. Simon, Senior Vice President and General Counsel, Van Eck Associates Corporation, to Brent J. Fields, Secretary, Commission, dated October 18, 2017 (''VanEck Letter''); (6) Noel Archard, Senior Vice President and Global SPDR Head of Product, State Street Global Advisors, to Brent J. Fields, Secretary, Commission, dated October 18, 2017 (''State Street Letter''); and (7) Timothy W. Cameron, Head, and Lindsey W. Keljo, Managing Director and Associate General Counsel, Asset Management Group of the Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary,

2017, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and superseded the proposed rule change, as modified by Amendment No. 1.[10] On November 22, 2017, the Exchange filed Amendment No. 3 to the proposed rule change, which amended and superseded the proposed rule change, as modified by Amendment No. 2.[11] The Commission is publishing this notice to solicit comment on Amendment No. 3 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 3

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 those statements may be examined at the places specified in Item V 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

Pursuant to NYSE Arca Rule 5.2–E(j)(3), the Exchange proposes to facilitate the listing and trading of certain series of Investment Company Units that do not otherwise meet the standards set forth in Commentary .02 to Rule 5.2–E(j)(3). Specifically, the Exchange proposes to facilitate the listing and trading of the following series of Investment Company Units based on a multistate index of fixed income municipal bond securities: iShares National Muni Bond ETF, iShares Short-Term National Muni Bond ETF, VanEck Vectors AMT-Free Intermediate Municipal Index ETF, VanEck Vectors AMT-Free Long Municipal Index ETF, VanEck Vectors AMT-Free Short Municipal Index ETF, VanEck Vectors High-Yield Municipal Index ETF, VanEck Vectors Pre-Refunded Municipal Index ETF, PowerShares VRDO Tax-Free Weekly Portfolio, SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF and SPDR Nuveen Bloomberg Barclays Municipal Bond ETF (collectively, the ''Multistate Municipal Bond Funds'').

In addition, the Exchange proposes to facilitate the listing and trading of the following series of Investment Company Units based on a single-state index of fixed income municipal bond securities: iShares California Muni Bond ETF and the iShares New York Muni Bond ETF (collectively, the ''Single-state Municipal Bond Funds'' and, together with the Multistate Municipal Bond Funds, the ''Municipal Bond Funds'').[12]

Each of the Municipal Bond Funds listed on the Exchange prior to 2010 and is based on an index of fixed-income municipal bond securities. Commentary .02 to Rule 5.2–E(j)(3) sets forth the generic listing requirements for an index of fixed income securities underlying a series of Investment Company Units. One of the enumerated listing requirements is that component fixed income securities that, in the aggregate, account for at least 75% of the weight of the index each shall have a minimum principal amount outstanding of $100 million or more.[13] The Exchange proposes to facilitate the listing and trading of the Municipal Bond Funds notwithstanding the fact that the indices on which they are based do not meet the requirements of Commentary .02(a)(2) to Rule 5.2–E(j)(3). Each of the indices on which the Municipal Bond Funds are based meet all of the other requirements of such rule.[14]

Commission, dated October 20, 2017 (''SIFMA Letter''). All of the comment letters are available at: *https://www.sec.gov/comments/sr-nysearca-2017-56/nysearca201756.htm.*

[10] Amendment No. 2 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nysearca-2017-56/nysearca201756-2669251-161439.pdf.*

[11] In Amendment No. 3, the Exchange: (1) Described the investment objective of each fund; (2) modified and supplemented its descriptions of the indexes underlying each fund; (3) identified the permitted investments of each fund; (3) represented that all futures contracts and exchange-traded options held by the funds would be listed on an exchange that is a member of the Intermarket Surveillance Group or with which the Exchange has in place a comprehensive surveillance sharing agreement; (4) added continued listing requirements for the Shares applicable to the underlying indexes; (5) disclosed information regarding the Shares that will be published on the websites of the funds; (6) discussed the availability of price information for all permitted investments of the funds; (7) added representations regarding the Exchange's surveillance of trading in the Shares and its ability to obtain trading information regarding certain permitted investments of the funds; and (8) made technical changes. Amendment No. 3 is as provided below and is also available at: *https://www.sec.gov/comments/sr-nysearca-2017-56/nysearca201756-2714674-161523.pdf.*

[12] The Exchange has previously filed a proposed rule change to facilitate the listing and trading of the Municipal Bond Funds. *See* Securities Exchange Act Release No. 81062 (June 30, 2017), 82 FR 31651 (July 7, 2017) (SR–NYSEArca–2017–56). On August 7, 2017, the Exchange filed Amendment No. 1 to SR–NYSEArca–2017–56 which replaced and superseded such filing in its entirety. On November 3, 2017, the Exchange filed Amendment No. 2 to SR–NYSEArca–2017–56 which replaced and superseded such filing as amended by Amendment No. 1 thereto. This Amendment No. 3 to SR–NYSE Arca–2017–56 replaces SR–NYSE Arca–2017–56 as amended by Amendments No. 1 and No. 2 thereto, and supersedes such filing in its entirety.

[13] *See* Commentary .02(a)(2) to NYSE Arca Rule 5.2–E(j)(3).

[14] The Commission previously has approved proposed rule changes relating to listing and trading on the Exchange of Units based on municipal bond indexes. *See* Securities Exchange Act Release Nos. 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2–E(j)(3), Commentary .02); 67729 (August 24, 2012), 77 FR 52776 (August 30, 2012) (SR–NYSEArca–2012–92) (notice of proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2–E(j)(3), Commentary .02) (''iShares 2018 Notice''); 72523, (July 2, 2014), 79 FR 39016 (July 9, 2014) (SR–NYSEArca–2014–37) (order approving proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2–E(j)(3), Commentary .02); 72172 (May 15, 2014), 79 FR 29241 (May 21, 2014) (SR–NYSEArca–2014–37) (notice of proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2–E(j)(3), Commentary .02) (''iShares 2020 Notice''); 72464 (June 25, 2014), 79 FR 37373 (July 1, 2014) (File No. SR–NYSEArca–2014–45) (order approving proposed rule change governing the continued listing and trading of shares of the PowerShares Insured California Municipal Bond Portfolio, PowerShares Insured National Municipal Bond Portfolio, and PowerShares Insured New York Municipal Bond Portfolio) (''PowerShares Order''); 75468 (July 16, 2015), 80 FR 43500 (July 22, 2015) (SR–NYSEArca–2015–25) (order approving proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Rule 5.2–E(j)(3)) (''iShares 2021/2022 Order''); 74730 (April 15, 2015), 76 FR 22234 (April 21, 2015) (notice of proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Rule 5.2–E(j)(3), Commentary .02) (''iShares 2021/2022 Notice''); 74730 75376 (July 7, 2015), 80 FR 40113 (July 13, 2015) (SR–NYSEArca–2015–18) (order approving proposed rule change relating to the listing and trading of Vanguard Tax-Exempt Bond Index Fund under NYSE Arca Rule 5.2–E(j)(3)). The Commission also has issued a notice of filing and immediate effectiveness of a proposed rule change relating to listing and trading on the Exchange of shares of the iShares Taxable Municipal Bond Fund. *See* Securities Exchange Act Release No. 63176 (October 25, 2010), 75 FR 66815 (October 29, 2010) (SR–NYSEArca–2010–94). The Commission has approved for Exchange listing and trading of shares of actively managed funds of that principally hold municipal bonds. *See, e.g.,* Securities Exchange Act Release Nos. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving listing and trading of shares of the PIMCO Short-Term Municipal Bond Strategy Fund and PIMCO Intermediate Municipal Bond Strategy Fund); 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR–NYSEArca–2016–107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF). The Commission also has

Continued

The Exchange believes it is appropriate to facilitate the listing and trading of the Municipal Bond Funds because, as described below, each such fund is based on a broad-based index of fixed income municipal bond securities that is not readily susceptible to manipulation:

1. According to its prospectus, the iShares National Muni Bond ETF seeks to track the investment results of the S&P National AMT-Free Municipal Bond Index, which measures the performance of the investment grade segment of the U.S. municipal bond market. The S&P National AMT-Free Municipal Bond Index primarily includes municipal bonds from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the federal alternative minimum tax.

As of April 1, 2017, the S&P National AMT-Free Municipal Bond Index included 11,333 component fixed income municipal bond securities from issuers in 47 different states or U.S. territories. The most heavily weighted security in the index represented approximately 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented less than 1% of the total weight of the index. Approximately 31.79% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $628,460,731,594 and the average dollar amount outstanding of issues in the index was approximately $55,454,048.

Under normal market conditions,[15] the iShares National Muni Bond ETF will invest at least 90% of its assets in the component securities of the S&P National AMT-Free Municipal Bond Index. With respect to the remaining 10% of its assets, the iShares National Muni Bond ETF may invest in short-term debt instruments issued by state governments, municipalities or local authorities, cash, exchange-traded U.S. Treasury futures and municipal money market funds, as well as in municipal bond securities not included in the S&P National AMT-Free Municipal Bond Index, but which the fund's investment advisor believes will help the fund track the S&P National AMT-Free Municipal Bond Index.

Requirement for Index Constituents

At least 90% of the weight of the S&P National AMT-Free Municipal Bond Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

2. According to its prospectus, the iShares Short Term National Muni Bond ETF seeks to track the investment results of the S&P Short Term National AMT-Free Municipal Bond Index, which measures the performance of the short-term investment grade segment of the U.S. municipal bond market. The S&P Short Term National AMT-Free Municipal Bond Index primarily includes municipal bonds from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the federal alternative minimum tax (''AMT'').

As of April 1, 2017, the S&P Short Term National AMT-Free Municipal Bond Index included 3,309 component fixed income municipal bond securities from issuers in 44 different states or U.S. territories. The most heavily weighted security in the index represented approximately 1% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2% of the total weight of the index. Approximately 27.63% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $166,147,941,156 and the average dollar amount outstanding of issues in the index was approximately $50,210,922.

Under normal market conditions, the iShares National Muni Bond ETF will invest at least 90% of its assets in the component securities of the S&P Short Term National AMT-Free Municipal Bond Index. With respect to the remaining 10% of its assets, the iShares National Muni Bond ETF may invest in short-term debt instruments issued by state governments, municipalities or local authorities, cash, exchange-traded U.S. Treasury futures and municipal money market funds, as well as in municipal bond securities not included in the S&P Short Term National AMT-Free Municipal Bond Index, but which the fund's investment advisor believes will help the fund track the S&P Short Term National AMT-Free Municipal Bond Index.

Requirement for Index Constituents

At least 90% of the weight of the S&P Short Term National AMT-Free Municipal Bond Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

3. According to its prospectus, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index. The Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated intermediate term tax-exempt bond market.

As of April 1, 2017, the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index included 17,272 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. The most heavily weighted security in the index represented less than 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 0.50% of the total weight of the index. Approximately 7.75% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $340,102,539,050 and the average dollar amount outstanding of issues in the index was approximately $19,690,976.

Under normal market conditions, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal

approved listing and trading on the Exchange of shares of the SPDR Nuveen S&P High Yield Municipal Bond Fund under Commentary .02 of NYSE Arca Rule 5.2–E(j)(3). *See* Securities Exchange Act Release No. 63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120).

[15] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Intermediate Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index will be comprised of securities that that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

4. According to its prospectus, the VanEck Vectors AMT-Free Long Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Long Continuous Municipal Index. The Bloomberg Barclays AMT-Free Long Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated long-term tax-exempt bond market.

As of April 1, 2017, the Bloomberg Barclays AMT-Free Long Continuous Municipal Index included 7,657 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. The most heavily weighted security in the index represented less than 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 1.25% of the total weight of the index. Approximately 32.34% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $279,575,285,082 and the average dollar amount outstanding of issues in the index was approximately $36,512,379.

Under normal market conditions, the VanEck Vectors AMT-Free Long Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Long Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Long Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT-Free Long Continuous Municipal Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Long Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Long Continuous Municipal Index.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays AMT-Free Long Continuous Municipal Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

5. According to its prospectus, the VanEck Vectors AMT-Free Short Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays AMT-Free Short Continuous Municipal Index. The Bloomberg Barclays AMT-Free Short Continuous Municipal Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated short-term tax-exempt bond market.

As of April 1, 2017, the Bloomberg Barclays AMT-Free Short Continuous Municipal Index included 7,229 component fixed income municipal bond securities from issuers in 48 different states or U.S. territories. The most heavily weighted security in the index represented approximately 1% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.25% of the total weight of the index. Approximately 13.60% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $152,020,140,995 and the average dollar amount outstanding of issues in the index was approximately $21,026,299.

Under normal market conditions, the VanEck Vectors AMT-Free Short Municipal Index ETF will invest at least 80% of its total assets in fixed income securities that comprise the Bloomberg Barclays AMT-Free Short Continuous Municipal Index. With respect to the remaining 20% of its assets, the VanEck Vectors AMT-Free Short Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays AMT-Free Short Continuous Municipal Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors AMT-Free Short Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in

cash and money market instruments, to simulate full investment in the Bloomberg Barclays AMT-Free Short Continuous Municipal Index.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays AMT-Free Short Continuous Municipal Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

6. According to its prospectus, the VanEck Vectors High-Yield Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays Municipal Custom High Yield Composite Index. The Bloomberg Barclays Municipal Custom High Yield Composite Index is a market size weighted index composed of publicly traded municipal bonds that cover the U.S. dollar denominated high yield long-term tax-exempt bond market. The Bloomberg Barclays Municipal Custom High Yield Composite Index is calculated using a market value weighting methodology, provided that the total allocation to issuers from each individual territory of the United States (including Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands) does not exceed 4%. The Bloomberg Barclays Municipal Custom High Yield Composite Index tracks the high yield municipal bond market with a 75% weight in non-investment grade municipal bonds and a targeted 25% weight in Baa/BBB rated investment grade municipal bonds.

As of April 1, 2017, the Bloomberg Barclays Municipal Custom High Yield Composite Index included 4,702 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. The most heavily weighted security in the index represented approximately 1.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 6% of the total weight of the index. Approximately 43.26% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $224,318,153,150 and the average dollar amount outstanding of issues in the index was approximately $47,706,966.

Under normal market conditions, the VanEck Vectors High-Yield Municipal Index ETF will invest at least 80% of its total assets in securities that comprise the Bloomberg Barclays Municipal Custom High Yield Composite Index. With respect to the remaining 20% of its assets, the VanEck Vectors High-Yield Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays Municipal Custom High Yield Composite Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the VanEck Vectors High-Yield Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays Municipal Custom High Yield Composite Index.

Requirement for Index Constituents

The Bloomberg Barclays Municipal Custom High Yield Composite Index is comprised of three total return, market size weighted benchmark indices with weights as follows: (i) 50% Weight in Muni High Yield/$100 Million Deal Size Index, (ii) 25% weight in Muni High Yield/Under $100 Million Deal Size Index, and (iii) 25% weight in Muni Baa Rated/$100 Million Deal Size Index. At least 90% of the weight of the Muni High Yield/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of at least $100 million. At least 90% of the weight of the Muni High Yield/Under $100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of under $100 million but over $20 million. At least 90% of the weight of the Muni Baa Rated/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $100 million.

7. According to its prospectus, the VanEck Vectors Pre-Refunded Municipal Index ETF seeks to replicate as closely as possible, before fees and expenses, the price and yield performance of the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index. The Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index is a market size weighted index comprised of publicly traded municipal bonds that cover the U.S. dollar denominated tax-exempt bond market. The Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index is comprised of pre-refunded and/or escrowed-to-maturity municipal bonds. As of April 1, 2017, the Bloomberg Barclays Municipal Pre-Refunded-Treasury-Escrowed Index included 3,691 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. The most heavily weighted security in the index represented approximately 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.25% of the total weight of the index. Approximately 19.23% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $94,289,476,486 and the average dollar amount outstanding of issues in the index was approximately $25,545,780.

Under normal market conditions, the VanEck Vectors Pre-Refunded Municipal Index ETF will invest at least 80% of its total assets in securities that comprise the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index. With respect to the remaining 20% of its assets, the VanEck Vectors Pre-Refunded Municipal Index ETF may invest in municipal bonds not included in the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index, money market instruments (including repurchase agreements or other funds which invest exclusively in money market instruments), convertible securities, exchange-traded warrants, participation notes, structured notes, cleared or non-cleared index, interest rate or credit default swap agreements, and, to the extent permitted by the 1940 Act, affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds. In addition, the

VanEck Vectors Pre-Refunded Municipal Index ETF may invest up to 20% of its assets in when-issued securities in order to manage cash flows as well as exchange-traded futures contracts and exchange-traded options thereon (all such exchange-traded futures contracts and exchange-traded options thereon will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), together with positions in cash and money market instruments, to simulate full investment in the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

8. According to its prospectus, the PowerShares VRDO Tax-Free Weekly Portfolio seeks investment results that generally correspond (before fees and expenses) to the price and yield of the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index. The Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index is comprised of municipal securities issued in the primary market as variable rate demand obligation (''VRDO'') bonds.

As of April 1, 2017, the Bloomberg US Municipal AMT-Free Weekly VRDO Index included 1,494 component fixed income municipal bond securities from issuers in 49 different states or U.S. territories. The most heavily weighted security in the index represented approximately 0.75% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.75% of the total weight of the index. Approximately 34.88% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $68,489,564,000 and the average dollar amount outstanding of issues in the index was approximately $45,843,082.

Under normal market conditions, the PowerShares VRDO Tax-Free Weekly Portfolio will invest at least 80% of its total assets in VRDO bonds that are exempt from federal income tax with interest rates that reset weekly that comprise the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index. With respect to the remaining 20% of its assets, the PowerShares VRDO Tax-Free Weekly Portfolio may invest in money market instruments (including repurchase agreements or other funds that invest exclusively in money market instruments), U.S. treasury securities, convertible securities, exchange-traded funds and structured notes as well as well as in VRDO and municipal bond securities not included in the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index, but which the fund's investment advisor believes will help the fund track the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index will be comprised of securities that have a minimum amount outstanding of $10 million.

9. According to its prospectus, the SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF seeks to provide investment results that, before fees and expenses, correspond generally to the price and yield performance of the Bloomberg Barclays Managed Money Municipal Short Term Index which tracks the short term tax exempt municipal bond market. The Bloomberg Barclays Managed Money Municipal Short Term Index is designed to track the publicly traded municipal bonds that cover the U.S. dollar denominated short term tax exempt bond market, including state and local general obligation bonds, revenue bonds, pre-refunded bonds, and insured bonds.

As of April 1, 2017, the Bloomberg Barclays Managed Money Municipal Short Term Index included 4,263 component fixed income municipal bond securities from issuers in 44 different states or U.S. territories. The most heavily weighted security in the index represented approximately 0.75% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2% of the total weight of the index. Approximately 10.82% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $85,187,709,681 and the average dollar amount outstanding of issues in the index was approximately $19,983,042.

Under normal market conditions, the SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF will invest substantially all, but at least 80%, of its total assets in the securities comprising the Bloomberg Barclays Managed Money Municipal Short Term Index or in securities that the fund's sub-adviser determines have economic characteristics that are substantially identical to the economic characteristics of the securities that comprise the Bloomberg Barclays Managed Money Municipal Short Term Index. With respect to the remaining 20% of its assets, the SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF may invest in debt securities that are not included in the Bloomberg Barclays Managed Money Municipal Short Term Index, cash and cash equivalents or money market instruments, such as repurchase agreements and money market funds, commercial paper, foreign currency transactions, reverse repurchase agreements, securities of other investment companies, exchange-traded futures on Treasuries or Eurodollars (all such exchange-traded futures contracts will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), U.S exchange-traded or OTC put and call options contracts and exchange-traded or OTC swap agreements (including interest rate swaps, total return swaps, excess return swaps and credit default swaps) and treasury-inflation protected securities of the U.S. Treasury as well as major governments and emerging market countries.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays Managed Money Municipal Short Term Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

10. According to its prospectus, the SPDR Nuveen Bloomberg Barclays Municipal Bond ETF seeks to provide investment results that, before fees and expenses, correspond generally to the price and yield performance of the Bloomberg Barclays Municipal Managed Money Index which tracks the U.S. municipal bond market. The Bloomberg Barclays Municipal Managed Money Index is designed to track the U.S. long term tax-exempt bond market, including state and local general obligation bonds, revenue bonds, pre-refunded bonds, and insured bonds. The Bloomberg Barclays Municipal Managed Money Index is comprised of tax-exempt municipal securities issued by states, cities, counties, districts and their respective agencies. The Bloomberg Barclays Municipal Managed Money Index also includes municipal lease obligations,

which are securities issued by state and local governments and authorities to finance the acquisition of equipment and facilities.

As of April 1, 2017, the Bloomberg Barclays Municipal Managed Money Index included 22,247 component fixed income municipal bond securities from issuers in 48 different states or U.S. territories. The most heavily weighted security in the index represented less than 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 0.50% of the total weight of the index. Approximately 13.35% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $496,240,108,998 and the average dollar amount outstanding of issues in the index was approximately $22,305,934.

Under normal market conditions, the SPDR Nuveen Bloomberg Barclays Municipal Bond ETF will invest substantially all, but at least 80%, of its total assets in the securities comprising the Bloomberg Barclays Municipal Managed Money Index or in securities that the fund's sub-adviser determines have economic characteristics that are substantially identical to the economic characteristics of the securities that comprise the Bloomberg Barclays Municipal Managed Money Index. With respect to the remaining 20% of its assets, the SPDR Nuveen Bloomberg Barclays Municipal Bond ETF may invest in debt securities that are not included in the Bloomberg Barclays Municipal Managed Money Index, cash and cash equivalents or money market instruments, such as repurchase agreements and money market funds, commercial paper, foreign currency transactions, reverse repurchase agreements, securities of other investment companies, exchange-traded futures on Treasuries or Eurodollars (all such exchange-traded futures contracts will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement), U.S exchange-traded or OTC put and call options contracts and exchange-traded or OTC swap agreements (including interest rate swaps, total return swaps, excess return swaps and credit default swaps) and treasury-inflation protected securities of the U.S. Treasury as well as major governments and emerging market countries.

Requirement for Index Constituents

At least 90% of the weight of the Bloomberg Barclays Municipal Managed Money Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

11. According to its prospectus, the iShares California Muni Bond ETF seeks to track the investment results of the S&P California AMT-Free Municipal Bond Index, which measures the performance of the investment grade segment of the California municipal bond market. The S&P California AMT-Free Municipal Bond Index is a subset of the S&P National AMT-Free Municipal Bond Index and is comprised of municipal bonds issued in the State of California. The S&P California AMT-Free Municipal Bond Index primarily includes municipal bonds from issuers in California that are California state or local governments or agencies whose interest payments are exempt from U.S. federal and California state income taxes and the federal alternative minimum tax.

As of April 1, 2017, the S&P California AMT-Free Municipal Bond Index included 2,115 component fixed income municipal bond securities from more than 150 distinct municipal bond issuers in the State of California. The most heavily weighted security in the index represented approximately 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.75% of the total weight of the index. Approximately 38.89% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $137,796,471,640 and the average dollar amount outstanding of issues in the index was approximately $65,151,996.

Under normal market conditions, the iShares California Muni Bond ETF will invest at least 90% of its assets in the component securities of the S&P California AMT-Free Municipal Bond Index. With respect to the remaining 10% of its assets, the iShares California Muni Bond ETF may invest in short-term debt instruments issued by state governments, municipalities or local authorities, cash, exchange-traded U.S. Treasury futures and municipal money market funds, as well as in municipal bond securities not included in the S&P California AMT-Free Municipal Bond Index, but which the fund's investment advisor believes will help the fund track the S&P California AMT-Free Municipal Bond Index.

Requirement for Index Constituents

At least 90% of the weight of the S&P California AMT-Free Municipal Bond Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

12. According to its prospectus, the iShares New York Muni Bond ETF seeks to track the investment results of the S&P New York AMT-Free Municipal Bond Index, which measures the performance of the investment grade segment of the New York municipal bond market. The S&P New York AMT-Free Municipal Bond Index is a subset of the S&P National AMT-Free Municipal Bond Index and is comprised of municipal bonds issued in the State of New York. The S&P New York AMT-Free Municipal Bond Index primarily includes municipal bonds from issuers in New York that are New York state or local governments or agencies whose interest payments are exempt from U.S. federal and New York State personal income taxes and the federal alternative minimum tax.

As of April 1, 2017, the S&P New York AMT-Free Municipal Bond Index included 2,191 component fixed income municipal bond securities from more than 20 distinct municipal bond issuers in the State of New York. The most heavily weighted security in the index represented approximately 1.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 4.25% of the total weight of the index. Approximately 34.50% of the weight of the components in the index had a minimum original principal amount outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the index was approximately $124,381,556,872 and the average dollar amount outstanding of issues in the index was approximately $56,769,309.

Under normal market conditions, the iShares New York Muni Bond ETF will invest at least 90% of its assets in the component securities of the S&P New York AMT-Free Municipal Bond Index. With respect to the remaining 10% of its assets, the iShares New York Muni Bond ETF may invest in short-term debt instruments issued by state governments, municipalities or local authorities, cash, exchange-traded U.S. Treasury futures and municipal money market funds, as well as in municipal

bond securities not included in the S&P New York AMT-Free Municipal Bond Index, but which the fund's investment advisor believes will help the fund track the S&P New York AMT-Free Municipal Bond Index.

Requirement for Index Constituents

At least 90% of the weight of the S&P New York AMT-Free Municipal Bond Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

Based on the characteristics of each index as described above, the Exchange believes it is appropriate to facilitate the listing and trading of the Municipal Bond Funds. Each index underlying the Municipal Bond Funds satisfies all of the generic listing requirements for Investment Company Units based on a fixed income index, except for the minimum principal amount outstanding requirement of Commentary .02(a)(2) to Rule 5.2–E(j)(3). A fundamental purpose behind the minimum principal amount outstanding requirement is to ensure that component securities of an index are sufficiently liquid such that the potential for index manipulation is reduced.

As described above, each index underlying the Multistate Municipal Bond Funds is broad-based and currently includes, on average, more than 8,000 component securities. Whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index,[16] no single security currently represents more than approximately 1.5% of the weight of any index underlying the Multistate Municipal Bond Funds. Similarly, the aggregate weight of the five most heavily weighted securities in each index does not exceed approximately 6%. The Exchange believes that this significant diversification and the lack of concentration among constituent securities provides a strong degree of protection against index manipulation.

Each index on which the Single-state Municipal Bond Funds is based is similarly well diversified to protect against index manipulation. On average, the indices underlying the Single-state Municipal Bond Funds include more than 1,500 securities. Each index includes securities from at least 20 distinct municipal bond issuers and the most heavily weighted security in any of the indices underlying the Single-state Municipal Bond Funds represents approximately 2% and the aggregate weight of the five most heavily weighted securities in any of the indices represents approximately 6.25% of the total index weight.

On a continuous basis, each index underlying a Municipal Bond Fund will (i) contain at least 500 component securities and (ii) comply with the parameters described under the heading ''Requirement for Index Constituents'' contained in the description of its related Municipal Bond Fund set forth above.[17] In addition, the Exchange represents that: (1) Except for Commentary .02(a)(2) to Rule 5.2–E(j)(3), each index currently satisfies all of the generic listing standards under Rule 5.2–E(j)(3); (2) the continued listing standards under Rules 5.2–E(j)(3) (except for Commentary .02(a)(2)) and 5.5–E(g)(2) applicable to Investment Company Units will apply to the shares of each Municipal Bond Fund; and (3) the issuer of each Municipal Bond Fund is required to comply with Rule 10A–3 [18] under the Act for the initial and continued listing of the shares of each Municipal Bond Fund. In addition, the Exchange represents that the shares of each Municipal Bond Fund will comply with all other requirements applicable to Investment Company Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the underlying index and the applicable Intraday Indicative Value (''IIV''),[19] rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers and the Information Bulletin to Equity Trading Permit Holders (''ETP Holders''), as set forth in Exchange rules applicable to Investment Company Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Investment Company Units.[20]

The current value of each index underlying the Municipal Bond Funds is widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Rule 5.2–E(j)(3), Commentary .02 (b)(ii). The IIV for shares of each Municipal Bond Fund is disseminated by one or more major market data vendors, updated at least every 15 seconds during the Exchange's Core Trading Session, as required by NYSE Arca Rule 5.2–E(j)(3), Commentary .02 (c). In addition, the portfolio of securities held by each Municipal Bond Fund is disclosed daily on each Municipal Bond Fund's website. Further, the website for each Municipal Bond Fund will contain the applicable fund's prospectus and additional data relating to net asset value (''NAV'') and other applicable quantitative information. The Exchange has obtained a representation from each Municipal Bond Fund issuer that the applicable NAV per share will be calculated daily will be made available to all market participants at the same time. None of the indices underlying the Municipal Bond Funds is maintained by a broker-dealer.

The Exchange notes that each of the Municipal Bond Funds has been listed on the Exchange for at least eight years [21] and that, during such time, the Exchange has not become aware of any potential manipulation of the underlying indices. Further, the Exchange's existing rules require that the Municipal Bond Funds notify the Exchange of any material change to the methodology used to determine the composition of the index.[22] Therefore, if the methodology of an index underlying the Municipal Bond Funds was changed in a manner that would materially alter its existing composition, the Exchange would have advance notice and would

[16] *See* Commentary .02(a)(4) to NYSE Arca Rule 5.2–E(j)(3).

[17] The Commission has previously approved a proposed rule change relating to the listing and trading on the Exchange of a series of Investment Company Units based on a municipal bond index that did not satisfy Commentary .02(a)(2) of Rule 5.2–E(j)(3) provided that such municipal bond index contained at least 500 component securities on a continuous basis. *See* Securities Exchange Act Release No. 79767 (January 10, 2017), 82 FR 4950 (January 17, 2017) (SR–NYSEArca–2016–62) (order approving proposed rule change relating to the listing and trading of the PowerShares Build America Bond Portfolio). The total dollar amount of issues in the index underlying the PowerShares Build America Bond Portfolio was approximately $281,589,346,769 and the average dollar amount outstanding of issues in the index was approximately $27,808,547. Those metrics are comparable to the metrics of the indices underlying the Municipal Bond Funds.

[18] 17 CFR 240.10A–3.

[19] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session of 9:30 a.m. to 4:00 p.m., Eastern time. Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[20] *See, e.g.,* Securities Exchange Act Release Nos. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

[21] The VanEck Vectors High-Yield Municipal Index ETF is the most recently listed of the Multistate Municipal Bond Funds and listed on the Exchange on February 5, 2009.

[22] *See* NYSE Arca Rule 5.3–E(i)(1)(i)(P).

evaluate the index, as modified, to determine whether it was sufficiently broad-based and well diversified.

Price information regarding municipal bonds, convertible securities, and non-exchange traded assets, including investment companies, derivatives, money market instruments, repurchase agreements, structured notes, participation notes, and when-issued securities is available from third party pricing services and major market data vendors. For exchange-traded assets, including investment companies, futures, warrants, and options, such intraday information is available directly from the applicable listing exchange.

Surveillance

The Exchange represents that trading in the shares of each Municipal Bond Fund will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the shares of each Municipal Bond Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[23]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and ETFs with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and ETFs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and ETFs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board (''MSRB'') relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[24] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the shares of each Municipal Bond Fund will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 5.2–E(j)(3) (except for Commentary .02(a)(2)). The Exchange represents that trading in the shares of each Municipal Bond Fund 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, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[25] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the shares of each Municipal Bond Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the shares of each Municipal Bond Fund with other markets that are members of the ISG. In addition, the Exchange will communicate as needed regarding trading in the shares of each Municipal Bond Fund with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the shares of each Municipal Bond Fund. 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 (''TRACE'').

As discussed above, the Exchange believes that each index underlying the Municipal Bond Funds is sufficiently broad-based to deter potential manipulation. Each index underlying the Multistate Municipal Bond Funds currently includes, on average, more than 8,000 component securities. Whereas the generic listing rules require that an index contain securities from a minimum of 13 non-affiliated issuers,[26] each index underlying the Multistate Municipal Bond Funds currently includes securities issued by municipal entities in more than 40 states or U.S. territories. Further, whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index,[27] no single security currently represents more than approximately 1.5% of the weight of any index underlying the Multistate Municipal Bond Funds. Similarly, the aggregate weight of the five most heavily weighted securities in each index does not exceed approximately 6%.

Further, the indices underlying the Single-state Municipal Bond Funds include, on average, more than 1,500 securities. Each such index includes securities from at least 20 distinct municipal bond issuers and the most heavily weighted security in any of the indices underlying the Single-state Municipal Bond Funds represents approximately 2% and the aggregate weight of the five most heavily weighted securities in any of the indices represents approximately 6.25% of the total index weight.

On a continuous basis, each index underlying a Municipal Bond Fund will (i) contain at least 500 component securities and (ii) comply with the parameters described under the heading ''Requirement for Index Constituents''

[23] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[24] 15 U.S.C. 78f(b)(5).

[25] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[26] *See* Commentary .02(a)(5) to NYSE Arca Rule 5.2–E(j)(3).

[27] *See* Commentary .02(a)(4) to NYSE Arca Rule 5.2–E(j)(3).

contained in the description of its related Municipal Bond Fund set forth above.

In support of its proposed rule change, the Exchange notes that the Commission has previously approved a rule change to facilitate the listing and trading of series of Investment Company Units based on an index of municipal bond securities that did not otherwise meet the generic listing requirements of NYSE Arca Rule 5.2–E(j)(3). For example, the Commission previous approved the listing and trading of the PowerShares Insured California Municipal Bond Portfolio, PowerShares Insured National Municipal Bond Portfolio and the PowerShares Insured New York Municipal Bond Portfolio (the ''PowerShares Municipal Bond Funds'') notwithstanding the fact that the index underlying each fund did not satisfy the criteria of Commentary .02(a)(2) to Rule 5.2–E(j)(3).[28] In finding such proposal to be consistent with the Act and the rules regulations thereunder, the Commission noted that each underlying index was sufficiently broad-based to deter potential manipulation. The Exchange believes that each of the indices underlying the Municipal Bond Funds shares comparable characteristics to the indices underlying the PowerShares Municipal Bond Funds.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information is publicly available regarding the Municipal Bond Funds, thereby promoting market transparency. Each Municipal Bond Fund's portfolio holdings will be disclosed on such Municipal Bond Fund's website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV for shares of each Municipal Bond Fund will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. The current value of each index underlying the Municipal Bond Funds will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the shares of each Municipal Bond Fund will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for each Municipal Bond Fund will include the prospectus for such Municipal Bond Fund and additional data relating to NAV and other applicable quantitative information. If the Exchange becomes aware that a Municipal Bond Fund's NAV is not being disseminated to all market participants at the same time, it will halt trading in the shares of such Municipal Bond Fund until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the shares of a Municipal Bond Fund. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares of a particular Municipal Bond Fund inadvisable. If the IIV and index value are not being disseminated for a particular Municipal Bond Fund as required, the Corporation may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs. If the interruption to the dissemination of an IIV or index value persists past the trading day in which it occurred, the Corporation will halt trading. Trading in the shares of a Municipal Bond Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares of a particular Municipal Bond Fund inadvisable, and trading in the shares of each Municipal Bond Fund will be subject to NYSE Arca Rule 7.34–E, which sets forth circumstances under which such shares may be halted. In addition, investors will have ready access to information regarding the applicable IIV, and quotation and last sale information for the shares of each Municipal Bond Fund. Trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system.

All statements and representations made in this filing regarding (a) the description of each Municipal Bond Fund's index, portfolio or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the shares of each Municipal Bond Fund on the Exchange. Each issuer of the Municipal Bond Funds is required to advise the Exchange of any failure by its Municipal Bond Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Municipal Bond Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of exchange-traded products that principally hold municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange has in place surveillance procedures relating to trading in the shares of each Municipal Bond Fund and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the IIV and quotation and last sale information for the shares of each Municipal Bond Fund.

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 facilitate the listing and trading of exchange-traded products that hold municipal securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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. Summary of Comments

The Commission received seven comment letters on the proposed rule change.[29] All of the letters support the proposed rule change for similar reasons.

[28] *See* Securities Exchange Act Release No. 72464 (June 25, 2014), 79 FR 37373 (July 1, 2014) (File No. SR–NYSEArca–2014–45).

[29] *See supra* note 9.

All of the commenters [30] assert that the approval of the proposed rule change would be consistent with the Commission's approval of a proposed rule change to list and trade shares of the PowerShares Build America Bond Portfolio.[31] According to the Exchange, in approving the continued listing of the Build America Bond Fund based on a new index, the Commission relied upon the index's broad diversification; the Exchange's representation that the index would comply on a continuous basis with all the requirements of Commentary .02 to NYSE Arca Rule 5.2–E(j)(3)—except for the requirement in Commentary .02(a)(2); and the Exchange's representation that in no event would the index contain fewer than 500 component securities.[32] The Exchange notes that, like the PowerShares Build America Bond Portfolio, each of the Municipal Bond Funds is based on an index of municipal bond securities that meet all the applicable generic listing requirements, except for the requirement in Commentary .02(a)(2) to NYSE Arca Rule 5.2–E(j)(3).[33] Further, the Exchange and other commenters argue that the Municipal Bond Funds are also diversified and/or broad-based.[34]

Additionally, three commenters [35] assert that the approval of the proposed rule change would be consistent with the Commission's approval of a proposal to list and trade shares of the Vanguard Tax-Exempt Bond ETF.[36] These commenters note that the Commission approved the shares even though the Vanguard Fund did not meet the minimum original principal amount outstanding requirement of Commentary .02(a)(2) to NYSE Arca Rule 5.2–E(j)(3).[37]

Most of the commenters point out that the continued listing standards applicable to the Municipal Bond Funds are scheduled to be implemented on January 1, 2018.[38] NYSE Arca states that, if the Commission does not approve the proposed rule change by that date, the Exchange will be required to declare the Municipal Bond Funds to be below compliance with the continued listing standards and commence delisting proceedings.[39] All of the commenters assert that delisting the Shares would be harmful to investors.[40] In addition, one of the commenters notes that the Municipal Bond Funds collectively have approximately $22 billion in assets under management.[41]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[42] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[43] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[44] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. The current value of each index underlying the Municipal Bond Funds is widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Rule 5.2–E(j)(3), Commentary .02 (b)(ii). In addition, IIVs for the Shares are disseminated by one or more major market data vendors and is updated at least every 15 seconds during the Exchange's Core Trading Session, as required by NYSE Arca Rule 5.2–E(j)(3), Commentary .02(c). The Exchange represents that information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last-sale information will be available via the CTA high-speed line. Trade price and other information relating to municipal bonds are available through the Municipal Securities Rulemaking Board's EMMA system. The website for the Municipal Bond Funds will include the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information.

The Commission believes that the proposal to list and trade the Shares 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. Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading Shares of a Municipal Bond Fund. If the Exchange becomes aware that a Municipal Bond Fund's NAV is not being disseminated to all market

[30] *See* Exchange Letter, *supra* note 9, at 1–2; BlackRock Letter, *supra* note 9, at 2; Invesco Letter, *supra* note 9, at 2–3; VanEck Letter, *supra* note 9, at 2; State Street Letter, *supra* note 9, at 2; ICI Letter, *supra* note 9, at 2; SIFMA Letter, *supra* note 9, at 2.

[31] *See* Securities Exchange Act Release No. 79767, 82 FR 4950 (January 17, 2017) (SR–NYSEArca–2016–62).

[32] *See* Exchange Letter, *supra* note 9, at 2.

[33] *See* Exchange Letter, *supra* note 9, at 2.

[34] *See* Exchange Letter, *supra* note 9, at 2; BlackRock, *supra* note 9, at 2; Invesco Letter, *supra* note 9, at 3; VanEck Letter, *supra* note 9, at 2; State Street Letter, *supra* note 9, at 1.

[35] *See* BlackRock Letter, *supra* note 9, at 2–3; Invesco Letter, *supra* note 9, at 3; VanEck Letter, *supra* note 9, at 2–3.

[36] *See* Securities Exchange Act Release No. 75376 (July 7, 2015), 80 FR 40113 (July 13, 2015).

[37] *See* BlackRock Letter, *supra* note 9, at 2–3; Invesco Letter, *supra* note 9, at 3; VanEck Letter, *supra* note 9, at 2–3. One of these commenters also points out that the Commission also approved the continued listing and trading of shares of the PowerShares National AMT-Free Municipal Bond Portfolio, which, according to the commenter, overlie another index that similarly satisfies all the applicable generic listing criteria other than Commentary .02(a)(2) to NYSE Arca Rule 5.2–E(j)(3). *See* Invesco Letter, *supra* note 9, at 2–3, *citing* Securities Exchange Act Release No. 72464 (June 25, 2014), 79 FR 37373 (July 1, 2014) (SR–NYSEArca-2014–45).

[38] *See* Exchange Letter, *supra* note 9, at 1; BlackRock Letter, *supra* note 9, at 2; State Street Letter, *supra* note 9, at 1; VanEck Letter, *supra* note 9, at 2; ICI Letter, *supra* note 9, at 2; SIFMA Letter, *supra* note 9, at 2.

[39] *See* Exchange Letter, *supra* note 9, at 1.

[40] *See* Exchange Letter, *supra* note 9, at 1; BlackRock Letter, *supra* note 9, at 3; Invesco Letter, *supra* note 9, at 3; State Street Letter, *supra* note 9, at 2; VanEck Letter, *supra* note 9, at 3; ICI Letter, *supra* note 9, at 2 (also asserting that delisting of the Shares would be disruptive to the markets); SIFMA Letter, *supra* note 9, at 2.

[41] *See* ICI Letter, *supra* note 9, at 2.

In addition, one commenter references an analysis that it provided to Commission staff in support of a proposed rule change that the Commission approved. The commenter states that its analysis: (1) Addressed the possibility, which was raised in an academic paper, that a municipal bond index or ETF comprised of less liquid bonds could be manipulated by strategic trading in a few illiquid components; and (2) concluded that this form of manipulation may be uneconomical and that it is unsupported in practice. *See* BlackRock Letter, *supra* note 9, at 3, text accompanying n.11.

[42] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78k 1(a)(1)(C)(iii).

participants at the same time, it will halt trading in those Shares until such time as the NAV is available to all market participants. If the IIV and index value are not being disseminated for a particular Municipal Bond Fund as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs; if the interruption to the dissemination of an IIV or index value persists past the trading day in which it occurred, the Exchange will halt trading. Trading in the Shares of a Municipal Bond Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in Shares inadvisable. Further, trading in the Shares will be subject to NYSE Arca Equities Rule 7.34–E, which sets forth circumstances under which trading in the Shares of a Municipal Bond Fund may be halted.[45] The Exchange states that trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's EMMA system.

Based on the Exchange's representations, the Commission believes that the indexes underlying the Municipal Bond Funds are sufficiently designed to deter potential manipulation. As of April 1, 2017:

• The S&P National AMT-Free Municipal Bond Index, which underlies the iShares National Muni Bond ETF, included 11,333 component fixed income municipal bond securities from issuers in 47 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented less than 1% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $628,460,731,594, and (c) the average dollar amount outstanding of issues in the index was approximately $55,454,048.

• The S&P Short Term National AMT-Free Municipal Bond Index, which underlies the iShares Short Term National Muni Bond ETF, included 3,309 component fixed income municipal bond securities from issuers in 44 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 1% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2% of the total weight of the index; (b) the total dollar amount outstanding of issues in the index was approximately $166,147,941,156, and (c) the average dollar amount outstanding of issues in the index was approximately $50,210,922.

• The Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index, which underlies the the VanEck Vectors AMT-Free Intermediate Municipal Index ETF, included 17,272 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented less than 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 0.50% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $340,102,539,050, and (c) the average dollar amount outstanding of issues in the index was approximately $19,690,976.

• The Bloomberg Barclays AMT-Free Long Continuous Municipal Index, which underlies the VanEck Vectors AMT-Free Long Municipal Index ETF, included 7,657 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented less than 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 1.25% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $279,575,285,082, and (c) the average dollar amount outstanding of issues in the index was approximately $36,512,379.

• The Bloomberg Barclays AMT-Free Short Continuous Municipal Index, which underlies the VanEck Vectors AMT-Free Short Municipal Index ETF, included 7,229 component fixed income municipal bond securities from issuers in 48 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 1% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.25% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $152,020,140,995, and (c) the average dollar amount outstanding of issues in the index was approximately $21,026,299.

• The Bloomberg Barclays Municipal Custom High Yield Composite Index, which underlies the VanEck Vectors High-Yield Municipal Index ETF, included 4,702 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. Additionally, the most heavily weighted security in the index represented approximately 1.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 6% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $224,318,153,150, and (c) the average dollar amount outstanding of issues in the index was approximately $47,706,966.

• The Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index, which underlies the VanEck Vectors Pre-Refunded Municipal Index ETF, included 3,691 component fixed income municipal bond securities from issuers in 50 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.25% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $94,289,476,486, and (c) the average dollar amount outstanding of issues in the index was approximately $25,545,780.

• The Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index, which underlies the PowerShares VRDO Tax-Free Weekly Portfolio, included 1,494 component fixed income municipal bond securities from issuers in 49 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 0.75% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.75% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $68,489,564,000, and (c) the average dollar amount outstanding of issues in

[45] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Municipal Bond Fund.

the index was approximately $45,843,082.

• The Bloomberg Barclays Managed Money Municipal Short Term Index, which underlies the SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF, included 4,263 component fixed income municipal bond securities from issuers in 44 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented approximately 0.75% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $85,187,709,681, and (c) the average dollar amount outstanding of issues in the index was approximately $19,983,042.

• The Bloomberg Barclays Municipal Managed Money Index, which underlies the SPDR Nuveen Bloomberg Barclays Municipal Bond ETF, included 22,247 component fixed income municipal bond securities from issuers in 48 different states or U.S. territories. Additionally, (a) the most heavily weighted security in the index represented less than 0.25% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 0.50% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $496,240,108,998, and (c) the average dollar amount outstanding of issues in the index was approximately $22,305,934.

• The S&P California AMT-Free Municipal Bond Index, which underlies the iShares California Muni Bond ETF, included 2,115 component fixed income municipal bond securities from more than 150 distinct municipal bond issuers in the State of California. Additionally, (a) the most heavily weighted security in the index represented approximately 0.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 2.75% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $137,796,471,640, and (c) the average dollar amount outstanding of issues in the index was approximately $65,151,996.

• The S&P New York AMT-Free Municipal Bond Index, which underlies the iShares New York Muni Bond ETF, included 2,191 component fixed income municipal bond securities from more than 20 distinct municipal bond issuers in the State of New York. Additionally, (a) the most heavily weighted security in the index represented approximately 1.50% of the total weight of the index and the aggregate weight of the top five most heavily weighted securities in the index represented approximately 4.25% of the total weight of the index, (b) the total dollar amount outstanding of issues in the index was approximately $124,381,556,872, and (c) the average dollar amount outstanding of issues in the index was approximately $56,769,309.

With respect to trading the Shares, the Commission believes that the proposed continued listing requirements applicable to the Shares (discussed below) are also sufficiently designed to deter potential manipulation. The Exchange represents that, on a continuous basis, each index underlying a Municipal Bond Fund will contain at least 500 component securities. The Exchange states that the continued listing of the Shares will be subject to the requirements of NYSE Arca Rule 5.2–E(j)(3)—except for Commentary .02(a)(2)—and Rule 5.5–E(g)(2). Additionally, the Exchange represents to the following on a continuous basis:

• At least 90% of the weight of the S&P National AMT-Free Municipal Bond Index, which underlies the iShares National Muni Bond ETF, will be comprised of securities that have a minimum part amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

• At least 90% of the weight of the S&P Short Term National AMT-Free Municipal Bond Index, which underlies the iShares Short Term National Muni Bond ETF, will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

• At least 90% of the weight of the Bloomberg Barclays AMT-Free Intermediate Continuous Municipal Index, which underlies the VanEck Vectors AMT-Free Intermediate Municipal Index ETF, will be comprised of securities that that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• At least 90% of the weight of the Bloomberg Barclays AMT-Free Long Continuous Municipal Index, which underlies the VanEck Vectors AMT-Free Long Municipal Index ETF, will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• At least 90% of the weight of the Bloomberg Barclays AMT-Free Short Continuous Municipal Index, which underlies the VanEck Vectors AMT-Free Short Municipal Index ETF, will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• The Bloomberg Barclays Municipal Custom High Yield Composite Index, which underlies the VanEck Vectors High-Yield Municipal Index ETF, is comprised of three total return, market size weighted benchmark indices with weights as follows: (i) 50% weight in Muni High Yield/$100 Million Deal Size Index, (ii) 25% weight in Muni High Yield/Under $100 Million Deal Size Index, and (iii) 25% weight in Muni Baa Rated/$100 Million Deal Size Index. At least 90% of the weight of the Muni High Yield/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of at least $100 million. At least 90% of the weight of the Muni High Yield/Under $100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $3 million and were issued as part of a transaction of under $100 million but over $20 million. At least 90% of the weight of the Muni Baa Rated/$100 Million Deal Size Index will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $100 million.

• At least 90% of the weight of the Bloomberg Barclays Municipal Pre-Refunded—Treasury-Escrowed Index, which underlies the VanEck Vectors Pre-Refunded Municipal Index ETF, will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• At least 90% of the weight of the Bloomberg U.S. Municipal AMT-Free Weekly VRDO Index, which underlies the the PowerShares VRDO Tax-Free Weekly Portfolio, will be comprised of securities that have a minimum amount outstanding of $10 million.

• At least 90% of the weight of the Bloomberg Barclays Managed Money Municipal Short Term Index, which underlies the SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF, will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• At least 90% of the weight of the Bloomberg Barclays Municipal Managed Money Index, which underlies the SPDR Nuveen Bloomberg Barclays Municipal Bond ETF, will be comprised of securities that have an outstanding par value of at least $7 million and were issued as part of a transaction of at least $75 million.

• At least 90% of the weight of the S&P California AMT-Free Municipal Bond Index, which underlies the iShares California Muni Bond ETF, will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

• At least 90% of the weight of the S&P New York AMT-Free Municipal Bond Index, which underlies the iShares New York Muni Bond ETF, will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million.

The Exchange also represents that all statements and representations made in the proposed rule change regarding (a) the description of each Municipal Bond Fund's index, portfolio, or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in the proposal constitute continued listing requirements for listing the Shares of each Municipal Bond Fund on the Exchange. The Exchange also states that the issuer of each Municipal Bond Fund is required to comply with Rule 10A–3 under the Act [46] for the initial and continued listing of the Shares. Further, the Exchange represents that the Shares will comply with all other requirements applicable to Investment Company Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the underlying index and the applicable IIV, rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers,[47] and dissemination of an Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to Investment Company Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Investment Company Units.

In support of this proposal, the Exchange has made representations, including the following:

(1) That trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(2) That the Exchange, FINRA on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets that are members of ISG. In addition, the Exchange will communicate as needed regarding trading in the Shares with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

(3) That each issuer of the Municipal Bond Funds is required to advise the Exchange of any failure by its Municipal Bond Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Municipal Bond Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).[48]

(4) That all statements and representations made in this proposal regarding (a) the description of each Municipal Bond Fund's index, portfolio, or reference asset, (b) limitations on index or portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in the proposed rule change shall constitute continued listing requirements for listing the Shares of each Municipal Bond Fund on the Exchange.

This approval order is based on the Exchange's description of each of the Municipal Bond Funds, and the Exchange's representations, including those set forth above and in Amendment No. 3.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 3 thereto, is consistent with Section 6(b)(5) of the Act [49] and the rules and regulations thereunder applicable to a national securities exchange.

V. Solicitation of Comments on Amendment No. 3

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3 to the proposed rule change are 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–2017–56 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–2017–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official

[46] 17 CFR 240.10A–3.

[47] *See* Commentary .02(b) to NYSE Arca Rule 5.2–E(j)(3) (requiring a broker-dealer or fund adviser maintaining an underlying index to erect and maintain a firewall around certain personnel).

[48] The Commission notes that certain other proposals include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 78005 (June 7, 2016), 81 FR 38247 (June 13, 2016) (SR–BATS–2015–100). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of a fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[49] 15 U.S.C. 78f(b)(5).

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–2017–56 and should be submitted on or before January 8, 2018.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3

The Commission believes that Amendment No. 3 furthers the goals of the proposed rule change and does not raise any novel regulatory issue. In particular, by Amendment No. 3, the Exchange expanded the continued listing criteria applicable to the Municipal Bond Funds.[50] Such changes assisted the Commission in determining that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to, among other things, prevent fraudulent and manipulative acts and practices. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[51] to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[52] that the proposed rule change (SR–NYSEArca–2017–56), as modified by Amendment No. 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27143 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[50] *See supra* note 11.

[51] 15 U.S.C. 78s(b)(2).

[52] *Id.*

[53] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82297; File No. SR–NYSEAMER–2017–36]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Equities Price List and the NYSE American Options Fee Schedule Relating to Co-location Services To Implement a Fee Change for Fiber Cross Connects

December 12, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 29, 2017, NYSE American LLC (''Exchange'' or ''NYSE American'') 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 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 NYSE American Equities Price List (''Price List'') and the NYSE American Options Fee Schedule (''Fee Schedule'') relating to co-location services to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List and Fee Schedule relating to co-location [4] services that the Exchange offers Users [5] to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018.

Cross connects are fiber connections used to connect cabinets and equipment within the data center. Cross connects may be used between a User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center.[6] For example, a cross connect may be used to connect cabinets of separate Users when a User receives technical support, order routing and/or market data delivery services from another User in the data center. Similarly, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center.[7]

A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects. Since 2010, the initial charge for individual cross connects has been $500 and the monthly charge $500.[8] The pricing for bundled cross connects has

[4] The Exchange initially filed rule changes relating to its co-location services with the Commission in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80).The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE LLC'') and NYSE Arca, Inc. (''NYSE Arca'' and, together with NYSE LLC, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

[6] *See* Securities Exchange Act Release No. 74220 (February 6, 2015), 80 FR 78894 (February 12, 2015) (SR–NYSEMKT–2015–08).

[7] *Id.* at 7895.

[8] *See* Securities Exchange Act Release No. 62731 (August 16, 2010), 75 FR 51515 (August 20, 2010) (SR–NYSEAmex–2010–80). *See also* 75 FR 59299, *supra* note 4, at 59299.

not changed since their introduction in 2012.[9]

The Exchange proposes to amend the Price List and Fee Schedule to increase the monthly recurring charges of the individual and bundled cross connects. More specifically, for individual cross connects, the monthly charge would be $600; for a bundle of six cross connects, the monthly charge would be $1,800; 12 cross connects would be $3,000 per month; 18 cross connects would be $3,840 per month; and 24 cross connects would be $4,680 per month. The Exchange does not propose to amend the initial charges.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[10] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both the Affiliate SROs.[11]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fee changes are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange believes that the proposed increase in the monthly recurring charge for cross connects would be reasonable, equitably allocated and not unfairly discriminatory because, in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services.

The Exchange believes that the proposed fee change would be reasonable, equitably allocated and not unfairly discriminatory because the Exchange offers the cross connects as conveniences to Users, but in order to do so must provide, maintain and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support and maintenance of co-location services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users.

The Exchange believes the proposed increased monthly recurring fee for cross connects would be reasonable because it would allow the Exchange to defray or cover the costs associated with offering Users cross connects, individually and in bundles, while providing each User the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[14] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

For the reasons above, the proposed changes would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that the proposed fee change for cross connects

[9] *See* Securities Exchange Act Release No. 67664 (August 15, 2012), 77 FR 50733 (August 22, 2012) (SR–NYSEMKT–2012–10).

[10] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[11] *See* 78 FR 50471, *supra* note 5, at 50471 . The Affiliate SROs have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2017–63 and SR–NYSEArca–2017–135.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* 75 FR 51515, *supra* note 8, and 77 FR 50733, *supra* note 9.

[15] 15 U.S.C. 78f(b)(8).

would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services. Each User would have the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[16] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder. 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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2017–36 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–2017–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2017–36 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

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[16] *See* 75 FR 51515, *supra* note 8, and 77 FR 50733, *supra* note 9.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82301; File No. SR–BatsBZX–2017–30]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Permit the Listing and Trading of Managed Portfolio Shares; and To List and Trade Shares of the Following Under Proposed Rule 14.11(k): ClearBridge Appreciation ETF, ClearBridge Large Cap ETF, ClearBridge MidCap Growth ETF, ClearBridge Select ETF, and ClearBridge All Cap Value ETF

December 12, 2017.

On June 1, 2017, Bats BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (1) Adopt Rule 14.11(k) (Managed Portfolio Shares); and (2) list and trade shares of the ClearBridge Appreciation ETF, ClearBridge Large Cap ETF, ClearBridge MidCap Growth ETF, ClearBridge Select ETF, and ClearBridge All Cap Value ETF under proposed Rule 14.11(k). The proposed rule change was published for comment in the **Federal Register** on June 19, 2017.[3] On July 28, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission initially received four comment letters on the proposed rule change.[6] On September 13, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [7] to determine whether to approve or disapprove the proposed rule change.[8] The Commission subsequently received one comment letter on the proposed rule change.[9]

Section 19(b)(2) of the Act [10] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission, however, may extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on June 19, 2017.[11] December 16, 2017 is 180 days from that date, and February 14, 2018 is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised in the comment letters that have been submitted in connection therewith. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[12] designates February 14, 2018 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–BatsBZX–2017–30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27148 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80911 (June 13, 2017), 82 FR 27925.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 81247, 82 FR 36031 (August 2, 2017). The Commission designated September 17, 2017, as the date by which it shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] *See* Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated July 7, 2017; Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated July 10, 2017; Letter from James J. Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, to the Commission, dated July 10, 2017; and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated August 1, 2017. The comment letters are available on the Commission's website at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 81599, 82 FR 43621 (September 18, 2017).

[9] *See* Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated December 5, 2017. The comment letter is available on the Commission's website at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730.htm.*

[10] 15 U.S.C. 78s(b)(2).

[11] *See supra* note 3 and accompanying text.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82303; File No. SR-CboeBYX–2017–002]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.9, Primary Pegged Order

December 12, 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 29, 2017, Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraph (c)(8)(A) of Exchange Rule 11.9, Primary Pegged Order, to restrict the Time-In-Force (''TIF'') instruction that a displayed Primary Pegged Order that includes a Primary Offset Amount (defined below) may have to Regular Hours Only (''RHO'') [5] or Day [6] if entered during Regular Trading Hours.[7]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[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).

[5] *See* Exchange Rule 11.9(b)(7) (defining a TIF of RHO as a limit or market order that is designated for execution only during Regular Trading Hours).

[6] *See* Exchange Rule 11.9(b)(2) (defining a TIF of Day as a limit order to buy or sell which, if not executed, expires at the end of Regular Trading Hours).

[7] Regular Trading Hours is defined as the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* Exchange Rule 1.5(w).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (c)(8)(A) of Exchange Rule 11.9, Primary Pegged Order, to restrict the TIF instruction that a displayed Primary Pegged Order with a Primary Offset Amount may have to RHO, or if entered during Regular Trading Hours, a TIF instruction of Day. Exchange Rule 11.9(c)(8) describes a Pegged Order as a limit order that after entry into the System,[8] the price of the order is automatically adjusted by the System in response to changes in the National Best Bid or Offer (''NBBO''). Exchange Rule 11.9(c)(8)(A) states that a User [9] entering a Pegged Order can specify that such order's price will offset the inside quote on the same side of the market by an amount set by the User (''Primary Offset Amount''). The Primary Offset Amount for a displayed Primary Pegged Order must result in the price of such order being inferior to or equal to the inside quote on the same side of the market.

Some available TIF instructions enable a Primary Pegged Order to expire at a time past the end of Regular Trading Hours at 4:00 p.m. Eastern Time. These TIF instructions are Good-'til Extended Day (''GTX''), Good-'til Day (''GTD''), Pre-Opening Session 'til Extended Day (''PTX''), and Pre-Opening Session 'til Day (''PTD'').[10]

The Exchange has observed that Primary Pegged Orders displayed on the BYX Book with non-aggressive Primary Offset Amounts and similar orders entered on away exchanges that remain active after the end of Regular Trading Hours may be pegged to and repriced off of each other during extended hours trading when no other reference price is available due to orders expiring or being cancelled at 4:00 p.m. Eastern Time. The following example illustrates this scenario. Assume the NBBO is $0.00 by $0.00. Market Maker 1 enters an order on Exchange A to buy 100 shares at $10.00 resulting in a new NBBO of $10.00 by $0.00. Market Maker 2 sends a Displayed Primary Peg order to Exchange B to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange B at $9.99. Market Maker 3 then also sends a Displayed Primary Peg order to Exchange C to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange C at $9.99. The NBBO remains $10.00 by $0.00. Market Maker 1 cancels their order to buy 100 shares at $10.00. The NBBO is now $9.99 by $0.00. Exchange B re-prices Market Maker 2's Displayed Primary Peg order to buy to $9.98, one cent below Market Maker 3's Displayed Primary Peg order on Exchange C. The NBBO is now $9.98 by $0.00. Exchange C then re-prices Market Maker 3's Displayed Primary Peg order to buy to $9.97, one cent below Market Maker 2's Displayed Primary Peg order on Exchange B. In the absence of new additional liquidity being entered at the NBB, each order would continue to be re-priced off each other until each reach $0.00.[11]

To prevent this from occurring, the Exchange proposes to restrict the TIF instruction that a displayed Primary Pegged Order with a Primary Offset Amount may have to RHO, or, if entered during Regular Trading Hours, a TIF instruction of Day. Doing so, [sic] would cause displayed Primary Pegged Orders resting on the BYX Book to be eligible for execution from 9:30 a.m. to 4:00 p.m. Eastern Time. Limiting the TIF instructions to RHO and Day only for displayed Primary Pegged Orders with Primary Offset Amounts would ensure that these orders are eligible for execution during Regular Trading Hours, which is the most liquid portion of the trading day, thereby significantly decreasing the possibility that such orders may re-price off similar orders entered on away exchanges in the absence of additional liquidity at the NBB or NBO. The proposed rule change would cause displayed Primary Pegged Orders with Primary Offset Amounts to expire at the end of Regular Trading Hours when a vast majority of orders expire and do not participate in extended hours trading. As amended, paragraph (c)(8)(A) of the Rule 11.9 would be amended to state that a displayed Primary Pegged Order with a Primary Offset Amount shall only include a TIF of RHO or, if entered during Regular Trading Hours, a TIF instruction of Day. As is the case today, Users may continue to enter displayed Primary Pegged Orders with Primary Offset Amounts and TIF instructions of RHO beginning at 6:00 a.m. Eastern Time. However, those orders would not be eligible for execution until 9:30 a.m. Eastern Time, the start of Regular Trading Hours.[12] Displayed Primary Peg orders with Primary Offset Amounts and a TIF of Day will be rejected if entered prior to 9:30 a.m., the start of Regular Trading Hours. Primary Pegged orders that do not include a Primary Offset Amount or that are not displayed on the BYX Book would have no restrictions on the TIF instructions that may be attached to the order.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(5) of the Act [14] 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. The proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by ensuring that Primary Pegged Orders with Primary Offset Amounts displayed on the EDGX [sic] Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity creating the illusion of aberrant prices for the security. The proposed rule change would restrict the use of the order type to Regular Trading Hours only, the most liquid part of the trading day, thereby significantly decreasing the possibly [sic] of such orders re-pricing off of each other in the absence of additional liquidity. The Exchange does not propose to amend or alter the operation of Limit Orders with a Pegged instruction in any other

[8] *See* Exchange Rule 1.5(aa).

[9] *See* Exchange Rule 1.5(cc).

[10] *See* Exchange Rule 11.9(b) (defining each of these TIF instructions).

[11] While this behavior may occur in less liquid securities during Regular Trading Hours, the Exchange has only witnesses [sic] this occurring after the close of trading, on only one occasion, and not with the use of any other pegged order type or instruction. The Exchange intends to monitor the use of displayed Primary Pegged Orders that include a Primary Offset Amount during Regular Trading Hours to identify when the situation subject to this proposal may occur.

[12] *See* Exchange Rule 11.1(a).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

manner. The proposed rule change also promotes just and equitable principles of trade by limiting the times at which such orders are active so as to ensure that the order pegs to prices that reflect the true NBBO of the security and not the Primary Offset Amount of a pegged order in the absence of other liquidity.

(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 is intended to ensure Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the BYX Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity. It is not intended to have a competitive impact.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f)(6) of Rule 19b–4 thereunder.[16]

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) [17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange 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 update its functionality during the operative delay period such that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the BYX Book do not inadvertently re-price off of similar orders on away exchanges in the absence of other liquidity. 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 to help prevent these types of pegged orders from inadvertently re-pricing to aberrant prices. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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:

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–CboeBYX–2017–002 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–CboeBYX–2017–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2017–002 and should be submitted on or before January 8,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27150 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 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.

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82304; File No. SR–CboeBZX–2017–008]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.9, Primary Pegged Order

December 12, 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 29, 2017, Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraph (c)(8)(A) of Exchange Rule 11.9, Primary Pegged Order, to restrict the Time-In-Force (''TIF'') instruction that a displayed Primary Pegged Order that includes a Primary Offset Amount (defined below) may have to Regular

Hours Only (''RHO'') [5] or Day [6] if entered during Regular Trading Hours.[7]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (c)(8)(A) of Exchange Rule 11.9, Primary Pegged Order, to restrict the TIF instruction that a displayed Primary Pegged Order with a Primary Offset Amount may have to RHO, or if entered during Regular Trading Hours, a TIF instruction of Day.[8] Exchange Rule 11.9(c)(8) describes a Pegged Order as a limit order that after entry into the System,[9] the price of the order is automatically adjusted by the System in response to changes in the National Best Bid or Offer (''NBBO''). Exchange Rule 11.9(c)(8)(A) states that a User [10] entering a Pegged Order can specify that such order's price will offset the inside quote on the same side of the market by an amount set by the User (''Primary Offset Amount''). The Primary Offset Amount for a displayed Primary Pegged Order must result in the price of such order being inferior to or equal to the inside quote on the same side of the market.

Some available TIF instructions enable a Primary Pegged Order to expire at a time past the end of Regular Trading Hours at 4:00 p.m. Eastern Time. These TIF instructions are Good-'til Extended Day (''GTX''), Good-'til Day (''GTD''), Pre-Opening Session 'til Extended Day (''PTX''), and Pre-Opening Session 'til Day (''PTD'').[11]

The Exchange has observed that Primary Pegged Orders displayed on the BZX Book with non-aggressive Primary Offset Amounts and similar orders entered on away exchanges that remain active after the end of Regular Trading Hours may be pegged to and repriced off of each other during extended hours trading when no other reference price is available due to orders expiring or being cancelled at 4:00 p.m. Eastern Time. The following example illustrates this scenario. Assume the NBBO is $0.00 by $0.00. Market Maker 1 enters an order on Exchange A to buy 100 shares at $10.00 resulting in a new NBBO of $10.00 by $0.00. Market Maker 2 sends a Displayed Primary Peg order to Exchange B to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange B at $9.99. Market Maker 3 then also sends a Displayed Primary Peg order to Exchange C to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange C at $9.99. The NBBO remains $10.00 by $0.00. Market Maker 1 cancels their order to buy 100 shares at $10.00. The NBBO is now $9.99 by $0.00. Exchange B re-prices Market Maker 2's Displayed Primary Peg order to buy to $9.98, one cent below Market Maker 3's Displayed Primary Peg order on Exchange C. The NBBO is now $9.98 by $0.00. Exchange C then re-prices Market Maker 3's Displayed Primary Peg order to buy to $9.97, one cent below Market Maker 2's Displayed Primary Peg order on Exchange B. In the absence of new additional liquidity being entered at the NBB, each order would continue to be re-priced off each other until each reach $0.00.[12]

To prevent this from occurring, the Exchange proposes to restrict the TIF instruction that a displayed Primary Pegged Order with a Primary Offset Amount may have to RHO, or, if entered during Regular Trading Hours, a TIF instruction of Day. Doing so, [sic] would cause displayed Primary Pegged Orders resting on the BZX Book to be eligible for execution from 9:30 a.m. to 4:00 p.m. Eastern Time. Limiting the TIF instructions to RHO and Day only for displayed Primary Pegged Orders with Primary Offset Amounts would ensure that these orders are eligible for execution during Regular Trading Hours, which is the most liquid portion of the trading day, thereby significantly decreasing the possibility that such orders may re-price off similar orders entered on away exchanges in the absence of additional liquidity at the NBB or NBO. The proposed rule change would cause displayed Primary Pegged Orders with Primary Offset Amounts to expire at the end of Regular Trading Hours when a vast majority of orders expire and do not participate in extended hours trading. As amended, paragraph (c)(8)(A) of the Rule 11.9 would be amended to state that a displayed Primary Pegged Order with a Primary Offset Amount shall only include a TIF of RHO or, if entered during Regular Trading Hours, a TIF instruction of Day. As is the case today, Users may continue to enter displayed Primary Pegged Orders with Primary Offset Amounts and TIF instructions of RHO beginning at 6:00 a.m. Eastern Time. However, those orders would not be eligible for execution until 9:30 a.m. Eastern Time, the start of Regular Trading Hours.[13] Displayed Primary Peg orders with Primary Offset Amounts and a TIF of Day will be rejected if entered prior to 9:30 a.m., the start of Regular Trading Hours. Primary Pegged orders that do not include a Primary Offset Amount or that are not displayed

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Exchange Rule 11.9(b)(7) (defining a TIF of RHO as a limit or market order that is designated for execution only during Regular Trading Hours).

[6] *See* Exchange Rule 11.9(b)(2) (defining a TIF of Day as a limit order to buy or sell which, if not executed, expires at the end of Regular Trading Hours).

[7] Regular Trading Hours is defined as the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* Exchange Rule 1.5(w).

[8] The Exchange also proposes a non-substantive change to delete the extraneous word ''order'' after ''Pegged Order'' in Exchange Rule 11.9(c)(8).

[9] *See* Exchange Rule 1.5(aa).

[10] *See* Exchange Rule 1.5(cc).

[11] *See* Exchange Rule 11.9(b) (defining each of these TIF instructions).

[12] While this behavior may occur in less liquid securities during Regular Trading Hours, the Exchange has only witnesses [sic] this occurring after the close of trading, on only one occasion, and not with the use of any other pegged order type or instruction. The Exchange intends to monitor the use of displayed Primary Pegged Orders that include a Primary Offset Amount during Regular Trading Hours to identify when the situation subject to this proposal may occur.

[13] *See* Exchange Rule 11.1(a).

on the BZX Book would have no restrictions on the TIF instructions that may be attached to the order.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(5) of the Act [15] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by ensuring that Primary Pegged Orders with Primary Offset Amounts displayed on the EDGX [sic] Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity creating the illusion of aberrant prices for the security. The proposed rule change would restrict the use of the order type to Regular Trading Hours only, the most liquid part of the trading day, thereby significantly decreasing the possibly [sic] of such orders re-pricing off of each other in the absence of additional liquidity. The Exchange does not propose to amend or alter the operation of Limit Orders with a Pegged instruction in any other manner. The proposed rule change also promotes just and equitable principles of trade by limiting the times at which such orders are active so as to ensure that the order pegs to prices that reflect the true NBBO of the security and not the Primary Offset Amount of a pegged order in the absence of other liquidity.

(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 is intended to ensure Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the BZX Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity. It is not intended to have a competitive impact.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f)(6) of Rule 19b–4 thereunder.[17]

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)[18] 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 update its functionality during the operative delay period such that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the BZX Book do not inadvertently re-price off of similar orders on away exchanges in the absence of other liquidity. 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 to help prevent these types of pegged orders from inadvertently re-pricing to aberrant prices. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[19]

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2017–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–-CboeBZX–2017–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2017–008 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27151 Filed 12–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82306; File No. SR–CboeEDGX–2017–002]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.8, Order Types

December 12, 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 29, 2017, Cboe EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraph (b) of Exchange Rule 11.8, Order Types, to restrict the Time-In-Force (''TIF'') instruction that a Limit Order with both a Display[5] instruction and Primary Peg[6] instruction that also includes a Primary Offset Amount (defined below) may have to Regular Hours Only (''RHO'')[7] or Day[8] if entered during Regular Trading Hours.[9]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (b) of Exchange Rule 11.8, Order Types, to restrict the TIF instruction that a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount may have to RHO or, if entered during Regular Trading Hours, a TIF of Day. Exchange Rule 11.8(b)(9) allows for a Limit Order to include a Primary Peg instruction. Exchange Rule 11.6(j)(2) describes the Primary Peg instruction as an order with instructions to peg to the National Best Bid (''NBB''), for a buy order, or the National Best Offer (''NBO''), for a sell order. A User[10] may, but is not required to, elect an offset equal to or greater than one Minimum Price Variation above or below the NBB or NBO that the order is pegged to (''Primary Offset Amount''). The Primary Offset Amount for an order with Primary Peg instruction that is to be displayed on the EDGX Book must result in the price of such order being inferior to or equal to the inside quote on the same side of the market.

Exchange Rule 11.8(b)(2) sets forth the TIF instructions that may be attached to a Limit Order. Some available TIF instructions enable a Limit Order to expire at a time past the end of Regular Trading Hours at 4:00 p.m. Eastern Time. These TIF instructions are Good-'til Extended Day (''GTX''), Good-'til Day (''GTD''), Pre-Opening Session 'til Extended Day (''PTX''), and Pre-Opening Session 'til Day (''PTD'').[11] The System automatically defaults the Limit Order to include a TIF instruction of Day if the User does not select a different TIF instruction.[12]

The Exchange has observed that Limit Orders with a Primary Peg instruction displayed on the EDGX Book with non-aggressive Primary Offset Amounts and similar orders entered on away exchanges that remain active after the end of Regular Trading Hours may be pegged to and repriced off of each other during extended hours trading when no other reference price is available due to orders expiring or being cancelled at 4:00 p.m. Eastern Time. The following example illustrates this scenario. Assume the NBBO is $0.00 by $0.00. Market Maker 1 enters an order on Exchange A to buy 100 shares at $10.00 resulting in a new NBBO of $10.00 by $0.00. Market Maker 2 sends a Displayed Primary Peg order to Exchange B to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange B at $9.99. Market Maker 3 then also sends a Displayed Primary Peg order to Exchange C to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange C at $9.99. The NBBO remains $10.00 by $0.00. Market Maker 1 cancels their order to buy 100 shares at $10.00. The NBBO is now $9.99 by $0.00. Exchange B re-prices Market Maker 2's Displayed Primary Peg order to buy to $9.98, one cent below Market Maker 3's Displayed Primary Peg order on Exchange C. The NBBO is now $9.98 by $0.00. Exchange C then re-prices Market Maker 3's Displayed Primary Peg order to buy to $9.97, one cent below Market Maker 2's Displayed Primary Peg order on Exchange B. In the absence of new additional liquidity being entered at the NBB, each order would continue to be re-priced off each other until each reach $0.00.[13]

[20] 17 CFR 200.30–3(a)(12) and (59).

[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).

[5] *See* Exchange Rule 11.6(e)(1).

[6] *See* Exchange Rule 11.6(j)(2).

[7] *See* Exchange Rule 11.6(q)(6) (defining a TIF of RHO as an instruction a User may attach to an order designating it for execution only during Regular Trading Hours).

[8] *See* Exchange Rule 11.6(q)(2) (defining a TIF of Day as an instruction a User may attach to an order stating that an order to buy or sell which, if not executed, expires at the end of Regular Trading Hours).

[9] Regular Trading Hours is defined as the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* Exchange Rule 1.5(y).

[10] *See* Exchange Rule 1.5(ee).

[11] *See* Exchange Rule 11.6(q) (defining each of these TIF instructions).

[12] *See* Exchange Rule 11.8(b)(2).

[13] While this behavior may occur in less liquid securities during Regular Trading Hours, the Exchange has only witnessed this occurring after the close of trading, on only one occasion, and not with the use of any other pegged order type or

To prevent this from occurring, the Exchange proposes to restrict the TIF instruction that a Limit Order with both a Display instruction and Primary Peg instruction that include [sic] a Primary Offset Amount may have to RHO, or, if entered during Regular Trading Hours, a TIF instruction of Day. Doing so would cause Displayed Primary Peg orders resting on the EDGX Book to be eligible for execution from 9:30 a.m. to 4:00 p.m. Eastern Time. Limiting the TIF instructions to RHO and Day only for Displayed Primary Peg orders with Primary Offsets Amounts would ensure that these orders are eligible for execution during Regular Trading Hours, which is the most liquid portion of the trading day, thereby significantly decreasing the possibility that such orders may re-price off similar orders entered on away exchanges in the absence of additional liquidity at the NBB or NBO. The proposed rule change would cause Displayed Primary Peg orders with Primary Offset Amounts to expire at the end of Regular Trading Hours when a vast majority of orders expire and do not participate in extended hours trading. As amended, paragraph (b)(9) of the Rule 11.8 would be amended to state that a Limit Order that includes both a Displayed instruction and Primary Peg instruction with a Primary Offset Amount (as defined in Rule 11.6(j)(2)) shall only include a TIF instruction of RHO or, if entered during Regular Trading Hours, a TIF instruction of Day. As is the case today, Users may continue to enter Displayed Primary Peg orders with Primary Offset Amounts and a TIF instruction of RHO beginning at 6:00 a.m. Eastern Time. However, those orders would not be eligible for execution until 9:30 a.m. Eastern Time, the start of Regular Trading Hours.[14] Displayed Primary Peg orders with Primary Offset Amounts and a TIF of Day will be rejected if entered prior to 9:30 a.m., the start of Regular Trading Hours. Primary Pegged orders that do not include a Primary Offset Amount or that are not displayed on the EDGX Book would have no restrictions on the TIF instructions that may be attached to the order pursuant to Exchange Rule 11.8(b)(2). Exchange Rule 11.8(b)(2) currently states that a Limit Order would be defaulted to a TIF instruction of Day. The Exchange proposes to amend Exchange Rule 11.8(b)(2) to state that the default behavior would be subject to the behavior proposed to be added to Exchange Rule 11.8(b)(9). As such, a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount that defaults to a TIF instruction of Day would be rejected if entered prior to the start of Regular Trading Hours. That order would need to be reentered with a TIF instruction of RHO. If entered during Regular Trading Hours, a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount that defaults to a TIF instruction of Day would be accepted by the System and handled in accordance with its order instructions.

In light of the change proposed above, the Exchange also proposes the following clarifying change to Exchange Rule 11.8(b) to account for a TIF instruction of RHO or Day being applied to a Displayed Primary Peg order with a Primary Offset Amount. Exchange Rule 11.8(b) specifies that the functionality described in paragraphs (9), (10), and (11) of the rule is available for Limit Orders that include a Post Only or Book Only instruction or TIF instruction of Day, GTD or GTX. As described above, paragraph (9) of Rule 11.8(b) explains that a Limit Order may be accompanied by a Pegged instruction. Paragraph (10) of Rule 11.8(b) describes the default behavior of order [sic] to comply with Rule 610 of Regulations NMS[15] and states that a Limit Order to buy (sell) that would cross the market at the time of entry would not be executed at a price higher (lower) than the locking price. Lastly, paragraph (11) of Rule 11.8(b) states that a Limit Order that includes a Short Sale instruction[16] that is not marked Short Exempt,[17] and that cannot be executed in the System or displayed by the System on the EDGX Book at its limit price because a Short Sale Circuit Breaker[18] is in effect, will be subject to the Re-Pricing Instruction to comply with Rule 201 of Regulation SHO,[19] unless the User affirmatively elects to have the order immediately Cancel Back.[20]

The functionality described in each of these paragraphs by design only applies to orders once they are posted to the EDGX Book. For instance, an order would only be re-priced to comply with Rule 610 or Regulation NMS or Rule 201 of Regulation SHO once posted to the EDGX Book to ensure it is posted at a price that complies with both rules. Over time, this language preceding paragraph (9) of Rule 11.8(b) has become outdated and does not account for TIF instructions that have been adopted since this provision of the rule was put into effect.[21] These include TIF instructions of PRE, PTX and PTD.[22] Therefore, the Exchange proposes to amend this provision to make it more general and simply state that paragraphs (9), (10), and (11) apply only to orders that are posted to the EDGX Book. This will include orders with a Post Only or Book Only instruction as well as orders with a TIF instruction of Day, GTD, GTX, RHO, PRE, PTX, and PTD. Paragraphs (9), (10), and (11) would not apply to orders that include a TIF of IOC or FOK as those orders are to be executed or cancelled upon entry and would never be placed on the EDGX Book.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[23] in general, and furthers the objectives of Section 6(b)(5) of the Act[24] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by ensuring that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGX Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity creating the illusion of aberrant prices for the security. The proposed rule change would restrict the use of the order type to Regular Trading Hours only, the most liquid part of the trading day, thereby significantly decreasing the possibility of such orders re-pricing off of each other in the absence of additional liquidity. The Exchange does not propose to amend or alter the

instruction. The Exchange intends to monitor the use of Limit Order [sic] with both a Display instruction and Primary Peg instruction that include a Primary Offset Amount during Regular Trading Hours to identify when the situation subject to this proposal may occur.

[14] *See* Exchange Rule 11.1(a)(1).

[15] 17 CFR 242.610

[16] Exchange Rule 11.6(o).

[17] Exchange Rule 11.6(p).

[18] 17 CFR 242.201.

[19] 17 CFR 242.201.

[20] Exchange Rule 11.8(b).

[21] These TIF instructions govern during which trading sessions an order remains eligible for execution and when that order expires if posted to the EDGX Book. *See* Exchange Rule 11.6(q)(7), (8), and (9). *See also* Securities Exchange Act Release No. 77538 (April 6, 2016), 81 FR 21632 (April 12, 2016) (SR–EDGX–2016–06).

[22] *See* Exchange Rule 11.6(q) (defining each of these TIF instructions).

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

operation of Limit Orders with a Pegged instruction in any other manner. The proposed rule change also promotes just and equitable principles of trade by limiting the times at which such orders are active so as to ensure that the order pegs to prices that reflect the true NBBO of the security and not the Primary Offset Amount of a pegged order in the absence of other liquidity. Lastly, the Exchange believes the proposed rule change removes impediments to and perfect [sic] the mechanism of a free and open market and a national market system by updating the rule to account for all scenarios in which a Limit Order may be placed on the EDGX Book and subject to the functionality covered in paragraphs (9), (10), and (11) of Rule 11.8(b).

(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 is intended to ensure Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGX Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity. It is not intended to have a competitive impact.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f)(6) of Rule 19b–4 thereunder.[26]

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) [27] 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 update its functionality during the operative delay period such that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGX Book do not inadvertently re-price off of similar orders on away exchanges in the absence of other liquidity. 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 to help prevent these types of pegged orders from inadvertently re-pricing to aberrant prices. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[28]

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:

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–CboeEDGX–2017–002 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–CboeEDGX–2017–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2017–002 and should be submitted on or before January 8,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27153 Filed 12–15–17; 8:45 am]

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[25] 15 U.S.C. 78s(b)(3)(A).

[26] 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.

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82300; File No. SR–CboeEDGX–2017–004]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Cboe EDGX Exchange, Inc. Equity Option Platform

December 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2017, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the Fee Schedule applicable to the Exchange's equity options platform (''EDGX Options'') to modify the description of certain pricing applicable to complex orders on EDGX Options.

The Exchange recently began accepting complex orders in connection with the launch of the EDGX Options complex order book (''COB'').[6] In turn, the Exchange adopted base fees and rebates applicable to complex orders to accommodate the acceptance of complex orders,[7] and then adopted various tiers to incentivize the entry of complex orders to the Exchange.[8] In connection with such pricing, the Exchange adopted certain pricing applicable to Non-Customer[9] orders which trade against Non-Customers that is variable depending on whether an order adds or removes liquidity. In particular, fee codes ZF, ZG, ZH and ZJ are assigned depending on whether an order added (ZF and ZH) or removed (ZG and ZJ) liquidity.

The Exchange proposes to add additional language to footnote 8 of the fee schedule to make clear when it considers an order to have added or removed liquidity when an order is executed in a Complex Order Auction. Specifically, as proposed, footnote 8 would state the following:

- For an execution that occurs within a Complex Order Auction (''COA'') against an unrelated order received after the COA was initiated or a COA response, for the purpose of assigning fee codes the initiating order is considered the adder and the unrelated order or COA response is considered the remover.
- For an execution that occurs within a COA against an unrelated order that was resting on the Exchange's order book when the COA was initiated, for the purpose of assigning fee codes the initiating order is considered the remover and the unrelated order is considered the adder.

The Exchange proposes this method of assigning add and remove to provide the status of adder to the order that should be considered ''first'' as between an order that initiates a COA or an unrelated order posted to the Exchange's order book. There are no cases in which an order that responds to a COA would be considered the adder of liquidity as, by definition, a response to a COA is always received after a COA has been initiated. The Exchange is not proposing to modify any of the rates applicable to complex orders processed by the Exchange.

Implementation Date

The Exchange proposes to implement the proposed changes immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[10] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls.

In particular, the Exchange believes that the proposed fee change is reasonable and equitably allocated as it will make clear in the context of the COA process the orders that will be assigned fee codes for orders that add liquidity and those that will be assigned fee codes for orders that remove liquidity. The Exchange further believes that the process of assigning status as adder to the order that was first between an order that initiates a COA or an order posted to the Exchange's order book is a reasonable implementation that is analogous to how such status is applied by the Exchange with respect to trading on the Exchange generally. The Exchange further believes the proposal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] *See* Securities Exchange Act Release No. 81891 (October 17, 2017) (SR–BatsEDGX–2017–29) (order approving rules for EDGX complex order book).

[7] The Exchange initially filed to adopt complex order pricing on October 23, 2017 (SR–BatsEDGX–2017–42). On October 31, 2017 the Exchange withdrew SR–BatsEDGX–2017–42 and submitted a filing to replace such filing (SR–BatsEDGX–2017–48).

[8] The Exchange initially filed to adopt tiers for its complex order pricing on November 1, 2017 (SR–BatsEDGX–2017–49). On November 8, 2017 the Exchange withdrew SR–BatsEDGX–2017–49 and submitted a filing to replace such filing (SR–BatsEDGX–2017–50).

[9] ''Non-Customer'' applies to any transaction that is not a Customer order. *See* the Exchange's fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/edgx.*

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

is not unreasonably discriminatory because the process for assigning add and remove values is equally applied to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change to add language to the Exchange's fee schedule burdens competition, but instead, improves the transparency and clarity of the Exchange's fee schedule. Further, the Exchange does not believe that the assignment of status as adder or remover burdens competition as between Members that submit orders to the Exchange that post to the Exchange's order book and Members that submit orders that initiate COAs because the process of assigning adder and remover status is clearly delineated in the fee schedule and is reasonable for the reasons described above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–CboeEDGX–2017–004 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-CboeEDGX–2017–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2017–004, and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27147 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82298; File No. SR–NYSEARCA–2017–135]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fees and Charges Schedule and the NYSE Arca Equities Fees and Charges Schedule Relating to Co-location Services To Implement a Fee Change for Fiber Cross Connects

December 12, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 29, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 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 NYSE Arca Options Fees and Charges schedule and the NYSE Arca Equities Fees and Charges schedule (together, the ''Fee Schedules'') relating to co-location services to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedules relating to co-location [4] services that the Exchange offers Users [5] to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018.

Cross connects are fiber connections used to connect cabinets and equipment within the data center. Cross connects may be used between a User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center.[6] For example, a cross connect may be used to connect cabinets of separate Users when a User receives technical support, order routing and/or market data delivery services from another User in the data center. Similarly, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center.[7]

A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects. Since 2010, the initial charge for individual cross connects has been $500 and the monthly charge $500.[8] The pricing for bundled cross connects has not changed since their introduction in 2012.[9]

The Exchange proposes to amend the Fee Schedules to increase the monthly recurring charges of the individual and bundled cross connects. More specifically, for individual cross connects, the monthly charge would be $600; for a bundle of six cross connects, the monthly charge would be $1,800; 12 cross connects would be $3,000 per month; 18 cross connects would be $3,840 per month; and 24 cross connects would be $4,680 per month. The Exchange does not propose to amend the initial charges.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [10] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both the Affiliate SROs.[11]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fee changes are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange believes that the proposed increase in the monthly recurring charge for cross connects would be reasonable, equitably allocated and not unfairly discriminatory because, in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services.

The Exchange believes that the proposed fee change would be reasonable, equitably allocated and not unfairly discriminatory because the Exchange offers the cross connects as conveniences to Users, but in order to do so must provide, maintain and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support and maintenance of co-location services,

[4] The Exchange initially filed rule changes relating to its co-location services with the Commission in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE LLC'') and NYSE American LLC (''NYSE American'' and, together with NYSE LLC, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] *See* Securities Exchange Act Release No. 74219 (February 6, 2015), 80 FR 7899 (February 12, 2015) (SR–NYSEArca–2015–03).

[7] *Id.* at 7900.

[8] *See* 75 FR 70048, *supra* note 3, at 70050.

[9] *See* Securities Exchange Act Release No. 67667 (August 15, 2012), 77 FR 50743 (August 22, 2012) (SR–NYSEArca–2012–63).

[10] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[11] *See* 78 FR 50459, *supra* note 5, at 50459. The Affiliate SROs have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2017–63 and SR–NYSEAmer–2017–36.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users.

The Exchange believes the proposed increased monthly recurring fee for cross connects would be reasonable because it would allow the Exchange to defray or cover the costs associated with offering Users cross connects, individually and in bundles, while providing each User the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[14] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

For the reasons above, the proposed changes would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that the proposed fee change for cross connects would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services. Each User would have the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[16] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder. 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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2017–135 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–2017–135. 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

[14] *See* 75 FR 70048, *supra* note 3, and 77 FR 50743, *supra* note 9.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* 75 FR 70048, *supra* note 3, and 77 FR 50743, *supra* note 9.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2017–135 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27145 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82302; File No. SR–NASDAQ–2017–126]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange Fees at Rules 7023, 7044, 7045 and 7048 To Withdraw Four Rarely-Purchased Products From Sale

December 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 30, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's fees at Rules 7023, 7044, 7045 and 7048 to withdraw four rarely-purchased products from sale: Historical ModelView Information, Nasdaq Custom Data Feeds, the Nasdaq Market Pathfinders Service, and the PORTAL Reference Database.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to withdraw four rarely-purchased products from sale—Historical ModelView Information, Nasdaq Custom Data Feeds, the Nasdaq Market Pathfinders Service, and the PORTAL Reference Database—as the Exchange performs an ongoing review of its product offerings.

ModelView

Historical ModelView Information (''ModelView''), set forth in Rule 7023(f), provides historical information regarding aggregate displayed and hidden liquidity at each price level in the Nasdaq Market Center on a T+10 basis. The information is aggregated at each price level and is designed to be used by developers of automated trading and order-routing models to improve Nasdaq trading efficiency and help firms understand how to minimize price impact with large orders. Information is useful for historical analysis, and does not reveal information about reserve size posted by any specific market participant.

Nasdaq Custom Data Feeds

Nasdaq Custom Data Feeds, described at Rule 7048, is a data feed service that allows Nasdaq to accommodate individual subscribers' requests for market data feeds containing a specified combination of data elements that would otherwise be delivered on multiple data feeds. These customized data feeds provide each customer with the ability to receive a unique combination of functionality and content.

Pathfinders

As set forth in Rule 7044, the Nasdaq Market Pathfinders Service (''Pathfinders'') is ''a real time data product that tracks the aggregated market activity of certain market participants who are aggressively buying and/or selling.'' The product identifies bullish or bearish positions taken by three or more market participants over an extended period of time and captures the aggregate sentiment of this well-informed group by indicating the number of Pathfinders bullish versus bearish in a particular stock, as well as the ratio of shares bought versus sold.

PORTAL Reference Database

PORTAL securities are restricted securities.[3] The PORTAL Reference Database, set forth in Rule 7045, is an electronic reference database of information culled from PORTAL offering documents and applications submitted to Nasdaq since 1990. The

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PORTAL securities are defined in the text of Rule 7045 as ''restricted securities, as defined in SEC Rule 144(a)(3) under the Securities Act; or securities that, pursuant to contract or through terms of the security, upon issuance and continually thereafter only can be sold pursuant to Regulation S under the Securities Act, SEC Rule 144A, or SEC Rule 144 under the Securities Act, or in a transaction exempt from the registration requirements of the Securities Act pursuant to Section 4 thereof and not involving any public offering that were designated for inclusion in the PORTAL Market by Nasdaq. PORTAL equity securities are PORTAL securities that represent an ownership interest in a legal entity, including but not limited to any common, capital, ordinary, preferred stock, or warrant for any of the foregoing, shares of beneficial interest, or the equivalent thereof (regardless of whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, exercisable or nonexercisable, callable or non-callable, redeemable or non-redeemable). PORTAL debt securities are PORTAL securities that are United States dollar denominated debt securities issued by United States and/or foreign private corporations.''

database is fully electronic and allows users to determine the PORTAL issue's name and offering description, CUSIP, country of incorporation, security class, maturity class and date, currency denomination, applicable interest and credit rating, convertibility and call provisions, total number of shares offered, and date of PORTAL designation, as well as other information. The database is open to all market participants.[4]

Proposed Changes

The Exchange proposes to withdraw ModelView, Nasdaq Custom Data Feeds, Pathfinders, and the PORTAL Reference Database from sale. As a result of an ongoing review of its product offerings, the Exchange has elected to withdraw these products due to the evolution of the market, including the competitive forces of operating an Exchange, market feedback, and the advancement of market structure since the products were introduced.

The products are all between nine and twelve years old. ModelView was introduced in 2005,[5] Nasdaq Custom Data Feeds in 2006,[6] Pathfinders in 2008,[7] and the PORTAL Reference Database in 2008,[8] and yet a sustained lack of customer interest over that period has rendered continued investments in these products impractical and unwise. Indeed, ModelView and Pathfinders have fewer than ten customers combined, and Nasdaq Custom Data Feeds and the PORTAL Reference Database have no customers. Advancements in market structure over the last ten years, coupled with a lack of customer interest, caused the Exchange to conclude that the products should be discontinued. While the Exchange does not believe any concerns about the products would be warranted, in the case of ModelView and Pathfinders, some customers have recently posed questions regarding the types of information included in the product. The Exchange would not offer a data product that it believed to be detrimental to the market, but Pathfinders and ModelView simply did not earn enough revenue to justify the costly undertaking of upgrading them. Accordingly, the Exchange has elected to discontinue these low-revenue products.

The Exchange proposes these changes so that it can remain competitive among exchanges and other competitors. Data products such as ModelView, Nasdaq Custom Data Feeds, Pathfinders, and the PORTAL Reference Database are a means by which exchanges compete to attract order flow. Customers base their order routing and purchasing decisions on total interactions with an exchange, and the market data products offered inform those decisions. In this competitive environment, the Exchange must continually review and adjust its product offerings and fees and, in this case, the Exchange has determined to jettison these four products to remain competitive.

In light of the age of these products, the small amount of revenue generated, the cost of maintenance, and the fierce competitive environment, the Exchange proposes to withdraw ModelView, Nasdaq Custom Data Feeds, Pathfinders, and the PORTAL Reference Database from the market.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In light of the age of ModelView, Nasdaq Custom Data Feeds, Pathfinders, and the PORTAL Reference Database, the small number of subscribers, and the fact that continuing to invest in unpopular products would be impractical, the Exchange believes that the proposal to remove these products from the market strikes the correct balance 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, rebate opportunities available at other venues to be more favorable, or prefer the market data offerings of another exchange. In such an environment, the Exchange must continually adjust its product offerings to remain competitive with other exchanges. Because competitors are free to modify their product offerings in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which changes in product offerings may impose any burden on competition is extremely limited. The Exchange does not expect the proposed withdrawal of ModelView, Nasdaq Custom Data Feeds, Pathfinders, and the PORTAL Reference Database to have a significant impact on competition. The products have few purchasers, and the Exchange has already discussed the proposal with current purchasers to ameliorate the impact of withdrawal. The products will not have any future impact on competition as the products will no longer be offered.

The proposed withdrawals illustrate the impact of market forces on the Exchange. Customers have not purchased these products in sufficient numbers to economically justify continuing to offer these products, and the Exchange therefore decided to discontinue them. That is precisely how competitive markets operate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on

[4] Nasdaq no longer designates securities as PORTAL securities. This is an historical database only, and the information contained within that database is, and will continue to be, widely available after this product is withdrawn.

[5] *See* Securities Exchange Act Release No. 51851 (June 14, 2005), 70 FR 35752 (June 21, 2005) (SR–NASD–2005–060); Securities Exchange Act Release No. 52112 (July 22, 2005), 70 FR 43917 (July 29, 2005) (approval order).

[6] *See* Securities Exchange Act Release No. 54959 (December 18, 2006), 71 FR 77842 (December 27, 2006) (SR–NASDAQ–2006–056); Securities Exchange Act Release No. 59579 (March 13, 2009), 74 FR 12167 (March 23, 2009) (approval order).

[7] *See* Securities Exchange Act Release No. 58145 (July 11, 2008), 73 FR 41143 (July 17, 2008) (SR–NASDAQ–2008–016); Securities Exchange Act Release No. 59266 (January 16, 2009), 74 FR 4799 (January 27, 2009) (approval order).

[8] *See* Securities Exchange Act Release No. 58622 (September 23, 2008), 73 FR 56876 (September 30, 2008) (SR–NASDAQ–2008–072); Securities Exchange Act Release 58891 (October 30, 2008), 73 FR 66090 (November 6, 2008) (approval order).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that, in light of the age of the products, the small number of subscribers (fewer than ten combined for ModelView and Pathfinders, and none for Nasdaq Custom Data Feeds and the PORTAL Reference Database), the impracticality of continuing to invest in these low-revenue products, and the competition among exchanges and other entities, the Exchange has determined to discontinue these products. Also, the Exchange stated that some customers have recently posed questions regarding the types of information included in ModelView and Pathfinders, and the Exchange wants to be responsive to customer feedback about products. Moreover, the Commission notes that the Exchange has already discussed the proposal with the affected customers to ameliorate any impact of the withdrawal. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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–NASDAQ–2017–126 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–126. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–126 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27149 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 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, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82299; File No. SR–NYSE–2017–63]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List Relating to Co-Location Services To Implement a Fee Change for Fiber Cross Connects

December 12, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 29, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List relating to co-location services to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 its Price List relating to co-location [4] services that the Exchange offers Users [5] to implement a fee change for fiber cross connects. The Exchange proposes to implement the proposed change on January 1, 2018.

Cross connects are fiber connections used to connect cabinets and equipment within the data center. Cross connects may be used between a User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center.[6] For example, a cross connect may be used to connect cabinets of separate Users when a User receives technical support, order routing and/or market data delivery services from another User in the data center. Similarly, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center.[7]

A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects. Since 2010, the initial charge for individual cross connects has been $500 and the monthly charge $500.[8] The pricing for bundled cross connects has not changed since their introduction in 2012.[9]

The Exchange proposes to amend the Price List to increase the monthly recurring charges of the individual and bundled cross connects. More specifically, for individual cross connects, the monthly charge would be $600; for a bundle of six cross connects, the monthly charge would be $1,800; 12 cross connects would be $3,000 per month; 18 cross connects would be $3,840 per month; and 24 cross connects would be $4,680 per month. The Exchange does not propose to amend the initial charges.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [10] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both the Affiliate SROs.[11]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fee changes are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange believes that the proposed increase in the monthly recurring charge for cross connects would be reasonable, equitably allocated and not unfairly discriminatory because, in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services.

The Exchange believes that the proposed fee change would be reasonable, equitably allocated and not unfairly discriminatory because the Exchange offers the cross connects as conveniences to Users, but in order to

[4] The Exchange initially filed rule changes relating to its co-location services with the Commission in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE American LLC (''NYSE American'') and NYSE Arca, Inc. (''NYSE Arca'' and, together with NYSE American, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] *See* Securities Exchange Act Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05).

[7] *Id.* at 7889.

[8] *See* Securities Exchange Act Release No. 62732 (August 16, 2010), 75 FR 51512 (August 20, 2010) (SR–NYSE–2010–56). *See also* 75 FR 59310, *supra* note 4, at 59311.

[9] *See* Securities Exchange Act Release No. 67666 (August 15, 2012), 77 FR 50742 (August 22, 2012) (SR–NYSE–2012–18).

[10] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[11] *See* 78 FR 51765, *supra* note 5, at 51766. The Affiliate SROs have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2017–36 and SR–NYSEArca–2017–135.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

do so must provide, maintain and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support and maintenance of co-location services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users.

The Exchange believes the proposed increased monthly recurring fee for cross connects would be reasonable because it would allow the Exchange to defray or cover the costs associated with offering Users cross connects, individually and in bundles, while providing each User the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[14] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

For the reasons above, the proposed changes would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that the proposed fee change for cross connects would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because in addition to the use of cross connects being completely voluntary, cross connects would continue to be available to all Users on an equal basis (*i.e.,* the same products and services would be available to all Users). All Users that voluntarily selected to purchase cross connects would be charged the same amount for the same services. Each User would have the convenience of receiving cross connects that may be used between the User's own cabinets, between its cabinet(s) and those of another User, and between a User's cabinet and a non-User's equipment within the data center, helping Users tailor their data center operations to the requirements of their business operations. The Exchange believes that the proposed increase is representative of the value provided to Users of cross connects. The Exchange notes that it has not increased the fee for individual cross connects since 2010 or for bundled cross connects since their introduction in 2012.[16] The proposed increase would provide for an equitable allocation of the reasonable cost among Users that choose to use individual cross connects.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder. 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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–63 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–2017–63. This file

[14] *See* 75 FR 51512, *supra* note 8, and 77 FR 50742, *supra* note 9.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* 75 FR 51512, *supra* note 8, and 77 FR 50742, *supra* note 9.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–63 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27146 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82305; File No. SR–CboeEDGA–2017–002]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.8, Order Types

December 12, 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 29, 2017, Cboe EDGA Exchange, Inc. (''EDGA'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraph (b) of Exchange Rule 11.8, Order Types, to restrict the Time-In-Force (''TIF'') instruction that a Limit Order with both a Display[5] instruction and Primary Peg[6] instruction that also include a Primary Offset Amount (defined below) may have to Regular Hours Only (''RHO'')[7] or Day[8] if entered during Regular Trading Hours.[9]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Exchange Rule 11.6(e)(1).

[6] *See* Exchange Rule 11.6(j)(2).

[7] *See* Exchange Rule 11.6(q)(6) (defining a TIF of RHO as an instruction a User may attach to an order designating it for execution only during Regular Trading Hours).

[8] *See* Exchange Rule 11.6(q)(2) (defining a TIF of Day as an instruction a User may attach to an order stating that an order to buy or sell which, if not executed, expires at the end of Regular Trading Hours).

[9] Regular Trading Hours is defined as the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* Exchange Rule 1.5(y).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (b) of Exchange Rule 11.8, Order Types, to restrict the TIF instruction that a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount may have to RHO or, if entered during Regular Trading Hours, a TIF of Day. Exchange Rule 11.8(b)(9) allows for a Limit Order to include a Primary Peg instruction. Exchange Rule 11.6(j)(2) describes the Primary Peg instruction as an order with instructions to peg to the National Best Bid (''NBB''), for a buy order, or the National Best Offer (''NBO''), for a sell order. A User[10] may, but is not required to, elect an offset equal to or greater than one Minimum Price Variation above or below the NBB or NBO that the order is pegged to (''Primary Offset Amount''). The Primary Offset Amount for an order with Primary Peg instruction that is to be displayed on the EDGA Book must result in the price of such order being inferior to or equal to the inside quote on the same side of the market.

Exchange Rule 11.8(b)(2) sets forth the TIF instructions that may be attached to a Limit Order. Some available TIF instructions enable a Limit Order to expire at a time past the end of Regular Trading Hours at 4:00 p.m. Eastern Time. These TIF instructions are Good-'til Extended Day (''GTX''), Good-'til Day (''GTD''), Pre-Opening Session 'til Extended Day (''PTX''), and Pre-Opening Session 'til Day (''PTD'').[11] The System automatically defaults the Limit Order to include a TIF instruction of Day if the User does not select a different TIF instruction.[12]

The Exchange has observed that Limit Orders with a Primary Peg instruction displayed on the EDGA Book with non-aggressive Primary Offset Amounts and similar orders entered on away exchanges that remain active after the end of Regular Trading Hours may be pegged to and repriced off of each other during extended hours trading when no other reference price is available due to orders expiring or being cancelled at 4:00 p.m. Eastern Time. The following example illustrates this scenario. Assume the NBBO is $0.00 by $0.00. Market Maker 1 enters an order on Exchange A to buy 100 shares at $10.00

[10] *See* Exchange Rule 1.5(ee).

[11] *See* Exchange Rule 11.6(q) (defining each of these TIF instructions).

[12] *See* Exchange Rule 11.8(b)(2).

resulting in a new NBBO of $10.00 by $0.00. Market Maker 2 sends a Displayed Primary Peg order to Exchange B to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange B at $9.99. Market Maker 3 then also sends a Displayed Primary Peg order to Exchange C to buy 100 with a −$0.01 Primary Offset Amount. That order is posted on Exchange C at $9.99. The NBBO remains $10.00 by $0.00. Market Maker 1 cancels their order to buy 100 shares at $10.00. The NBBO is now $9.99 by $0.00. Exchange B re-prices Market Maker 2's Displayed Primary Peg order to buy to $9.98, one cent below Market Maker 3's Displayed Primary Peg order on Exchange C. The NBBO is now $9.98 by $0.00. Exchange C then re-prices Market Maker 3's Displayed Primary Peg order to buy to $9.97, one cent below Market Maker 2's Displayed Primary Peg order on Exchange B. In the absence of new additional liquidity being entered at the NBB, each order would continue to be re-priced off each other until each reach $0.00.[13]

To prevent this from occurring, the Exchange proposes to restrict the TIF instruction that a Limit Order with both a Display instruction and Primary Peg instruction that include [sic] a Primary Offset Amount may have to RHO, or, if entered during Regular Trading Hours, a TIF instruction of Day. Doing so would cause Displayed Primary Peg orders resting on the EDGA Book to be eligible for execution from 9:30 a.m. to 4:00 p.m. Eastern Time. Limiting the TIF instructions to RHO and Day only for Displayed Primary Peg orders with Primary Offsets Amounts would ensure that these orders are eligible for execution during Regular Trading Hours, which is the most liquid portion of the trading day, thereby significantly decreasing the possibility that such orders may re-price off similar orders entered on away exchanges in the absence of additional liquidity at the NBB or NBO. The proposed rule change would cause Displayed Primary Peg orders with Primary Offset Amounts to expire at the end of Regular Trading Hours when a vast majority of orders expire and do not participate in extended hours trading. As amended, paragraph (b)(9) of the Rule 11.8 would be amended to state that a Limit Order that includes a both [sic] Displayed instruction and Primary Peg instruction with a Primary Offset Amount (as defined in Rule 11.6(j)(2)) shall only include a TIF instruction of RHO or, if entered during Regular Trading Hours, a TIF instruction of Day. As is the case today, Users may continue to enter Displayed Primary Peg orders with Primary Offset Amounts and a TIF instruction of RHO beginning at 6:00 a.m. Eastern Time. However, those orders would not be eligible for execution until 9:30 a.m. Eastern Time, the start of Regular Trading Hours.[14] Displayed Primary Peg orders with Primary Offset Amounts and a TIF of Day will be rejected if entered prior to 9:30 a.m., the start of Regular Trading Hours. Primary Pegged orders that do not include a Primary Offset Amount or that are not displayed on the EDGA Book would have no restrictions on the TIF instructions that may be attached to the order pursuant to Exchange Rule 11.8(b)(2). Exchange Rule 11.8(b)(2) currently states that a Limit Order would be defaulted to a TIF instruction of Day. The Exchange proposes to amend Exchange Rule 11.8(b)(2) to state that the default behavior would be subject to the behavior proposed to be added to Exchange Rule 11.8(b)(9). As such, a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount that defaults to a TIF instruction of Day would be rejected if entered prior to the start of Regular Trading Hours. That order would need to be reentered with a TIF instruction of RHO. If entered during Regular Trading Hours, a Limit Order with both a Display instruction and Primary Peg instruction and a Primary Offset Amount that defaults to a TIF instruction of Day would be accepted by the System and handled in accordance with its order instructions.

In light of the change proposed above, the Exchange also proposes the following clarifying change to Exchange Rule 11.8(b) to account for a TIF instruction of RHO or Day being applied to a Displayed Primary Peg order with a Primary Offset Amount. Exchange Rule 11.8(b) specifies that the functionality described in paragraphs (9), (10), and (11) of the rule is available for Limit Orders that include a Post Only or Book Only instruction or TIF instruction of Day, GTD or GTX. As described above, paragraph (9) of Rule 11.8(b) explains that a Limit Order may be accompanied by a Pegged instruction. Paragraph (10) of Rule 11.8(b) describes the default behavior of order [sic] to comply with Rule 610 of Regulations NMS[15] and states that a Limit Order to buy (sell) that would cross the market at the time of entry would not be executed at a price higher (lower) than the locking price. Lastly, paragraph (11) of Rule 11.8(b) states that a Limit Order that includes a Short Sale instruction[16] that is not marked Short Exempt,[17] and that cannot be executed in the System or displayed by the System on the EDGA Book at its limit price because a Short Sale Circuit Breaker[18] is in effect, will be subject to the Re-Pricing Instruction to comply with Rule 201 of Regulation SHO,[19] unless the User affirmatively elects to have the order immediately Cancel Back.[20]

The functionality described in each of these paragraphs by design only applies to orders once they are posted to the EDGA Book. For instance, an order would only be re-priced in to [sic] comply with Rule 610 or Regulation NMS or Rule 201 of Regulation SHO once posted to the EDGA Book to ensure it is posted at a price that complies with both rules. Overtime [sic], this language preceding paragraph (9) of Rule 11.8(b) has become outdated and does not account for TIF instructions that have been adopted since this provision of the rule was put into effect.[21] These include TIF instructions of PRE, PTX and PTD.[22] Therefore, the Exchange proposes to amend this provision to make it more general and simply state that paragraphs (9), (10), and (11) apply only to orders that are posted to the EDGA Book. This will include orders with a Post Only or Book Only instruction as well as orders with a TIF instruction of Day, GTD, GTX, RHO, PRE, PTX, and PTD. Paragraphs (9), (10), and (11) would not apply to orders that include a TIF of IOC or FOK as those orders are to be executed or cancelled upon entry and would never be placed on the EDGA Book.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[13] While this behavior may occur in less liquid securities during Regular Trading Hours, the Exchange has only witnesses [sic] this occurring after the close of trading, on only one occasion, and not with the use of any other pegged order type or instruction. The Exchange intends to monitor the use of Limit Order [sic] with both a Display instruction and Primary Peg instruction that include a Primary Offset Amount during Regular Trading Hours to identify when the situation subject to this proposal may occur.

[14] *See* Exchange Rule 11.1(a)(1).

[15] 17 CFR 242.610.

[16] Exchange Rule 11.6(o).

[17] Exchange Rule 11.6(p).

[18] 17 CFR 242.201.

[19] 17 CFR 242.201.

[20] Exchange Rule 11.8(b).

[21] These TIF instructions govern during which trading sessions an order remains eligible for execution and when that order expires if posted to the EDGA Book. *See* Exchange Rule 11.6(q)(7), (8), and (9). *See also* Securities Exchange Act Release No. 77537 (April 6, 2016), 81 FR 21620 (April 12, 2016) (SR–EDGA–2016–02).

[22] *See* Exchange Rule 11.6(q) (defining each of these TIF instructions).

of the Act [23] in general, and furthers the objectives of Section 6(b)(5) of the Act [24] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by ensuring that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGA Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity creating the illusion of aberrant prices for the security. The proposed rule change would restrict the use of the order type to Regular Trading Hours only, the most liquid part of the trading day, thereby significantly decreasing the possibility of such orders re-pricing off of each other in the absence of additional liquidity. The Exchange does not propose to amend or alter the operation of Limit Orders with a Pegged instruction in any other manner. The proposed rule change also promotes just and equitable principles of trade by limiting the times at which such orders are active so as to ensure that the order pegs to prices that reflect the true NBBO of the security and not the Primary Offset Amount of a pegged order in the absence of other liquidity. Lastly, the Exchange believes the proposed rule change removes impediments to and perfect [sic] the mechanism of a free and open market and a national market system by updating the rule to account for all scenarios in which a Limit Order may be placed on the EDGA Book and subject to the functionality covered in paragraphs (9), (10), and (11) of Rule 11.8(b).

(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 is intended to ensure Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGA Book do not inadvertently re-price off similar orders on away exchanges in absence of other liquidity. It is not intended to have a competitive impact.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f)(6) of Rule 19b–4 thereunder.[26]

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) [27] 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 update its functionality during the operative delay period such that Limit Orders with a Primary Pegged instruction and Primary Offset Amount displayed on the EDGA Book do not inadvertently re-price off of similar orders on away exchanges in the absence of other liquidity. 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 to help prevent these types of pegged orders from inadvertently re-pricing to aberrant prices. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[28]

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:

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–CboeEDGA–2017–002 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–CboeEDGA–2017–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 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.

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CboeEDGA–2017–002 and should be submitted on or before January 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27152 Filed 12–15–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/74–0282 issued to Frontier Fund I, LP., said license is hereby declared null and void.

United States Small Business Administration.

Dated: December 6, 2017.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2017–27118 Filed 12–15–17; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 08/08–0171 issued to UTFC Fund II, LLC, said license is hereby declared null and void.

United States Small Business Administration.

Dated: December 6, 2017.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2017–27119 Filed 12–15–17; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before January 17, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The Governor of the State U.S. territory or possession affected by a disaster submits this information collection to request that SBA issue a disaster declaration. The information identifies the time, place and nature of the incident and helps SBA to determine whether the regulatory criteria for a disaster declaration have been met, and disaster assistance can be made available to the affected region.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Disaster Business Application.

Description of Respondents: Governs Request for Disaster Declaration.

Form Number: N/A.

Estimated Annual Respondents: 29.

Estimated Annual Responses: 61.

Estimated Annual Hour Burden: 1,220.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017–27131 Filed 12–15–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–97]

Petition for Exemption; Summary of Petition Received; Debra Plymate

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before January 8, 2018.

ADDRESSES: Send comments identified by docket number FAA–2017–0995 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey

[29] 17 CFR 200.30–3(a)(12) and (59).

Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keira Jones (202) 267–6109, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Dale Bouffiou,

Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0995.

Petitioner: Debra Plymate.

Section(s) of 14 CFR Affected: § 1.1.

Description of Relief Sought: Petitioner seeks an exemption from § 1.1 to allow the McClish Funk B to be eligible for the issuance of a special airworthiness certificate in the light-sport category though the aircraft exceeds a maximum takeoff weight of 1,320 pounds (600 kilograms) for aircraft not intended for operation on water.

[FR Doc. 2017–27126 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–96]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before January 8, 2018.

ADDRESSES: Send comments identified by docket number FAA–2012–1132 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, AIR–673, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on December 11, 2017.

Victor Wicklund,

Manager, Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2012–1132.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: § 25.981(a)(3) at Amendment 25–125 and 25.901(c) at Amendment 25–126.

Description of Relief Sought: The Boeing Company requests an extension of the compliance date for the currently published exemption 10767 to allow an exemption expiration date of December 31, 2027.

A time-limited extension would allow Boeing to produce, to their predicted end of production, Boeing Model 767–300F airplanes with fuel-quantity indication systems that do not meet the requirements of § 25.981.

[FR Doc. 2017–27154 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of agency law. The actions relate to a proposed highway project, Interstate 15, from post mile 18.3 to post mile 21.0, in the City of Lake Elsinore, in the County of Riverside, State of California. Those

actions grant licenses, permits, and approvals for the project.

DATES: A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 17, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Marie Petry, Senior Environmental Planner, California Department of Transportation, Division or Environmental Planning, 464 W. Fourth Street, 6th Floor, MS 827, San Bernardino, California 92401: or call (909) 388–1387, email *marie.petry@dot.ca.gov;* Alex Menor, Riverside County Transportation Commission, 4080 Lemon Street, Riverside, CA 92502, by phone at (951) 787–7970, email *amenor@rctc.org.* Normal business hours are from 8:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Interstate 15 (I–15)/Railroad Canyon Road Interchange Project is proposed from post mile 18.3 to post mile 21.0, in the City of Lake Elsinore, in Riverside County. Proposed work includes improvements to I–15/Railroad Canyon Road Interchange and the construction of a new interchange 0.22 mile north of the existing I–15/Franklin Street overcrossing. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA) for the project, approved on August 25, 2017. The EA, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans EA can be viewed and downloaded from the project website at *http://rctcdev.info/projects/i-15-railroad-canyon-road-and-franklin-interchange-project.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351 *et seq.)*
2. Council on Environmental Quality Regulations
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. Map—21, the Moving Ahead of Progress in the 21st Century Act
5. Clean Air Act (42 U.S.C. 7401–7671(q))
6. Migratory Bird Treaty Act (16 U.S.C. 703–712)
7. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) *et seq.*)
8. Clean Water Act (Section 401) (33 U.S.C. 1251–1377) of 1977 and 1987 (Federal Water Pollution Control Act of 1972)
9. Federal Endangered Species Act of 1973 (16 U.S.C. 1531–1543)
10. Fish and Wildlife Coordination Act of 1934, as amended
11. Noise Control Act of 1972
12. Executive Order 11990—Protection of Wetlands
13. Executive Order 11988—Floodplains Management
14. Executive Order 13112—Invasive Species
15. Executive Order 12898—Federal Actions To Address Environmental Justice and Low Income Populations
16. Title VI of the Civil Rights Act of 1964, as amended

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Tashia Clemons,

Director, Program Development, Federal Highway Administration, Sacramento, California.

[FR Doc. 2017–27046 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0052]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by February 16, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID 2017–0052 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Taylor, 202–366–2907, Office of Human Resources, Corporate Recruitment and Career Entry Division, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: DOT–FHWA Summer Transportation Internship Program for diverse Groups (STIPDG).

Background: 23 U.S.C. 140 (b) Section 5204—Training and Education/Surface Transportation Workforce Development, Training, and Education states that subject to project approval by the Secretary, a State may obligate funds apportioned to the State for five primary core programs (STP, NHS, Bridge, IM, CMAQ), workforce development, training, and education, including student internships; university or community college support; and outreach to develop interest and promote participation in surface transportation careers. The Summer Transportation Internship Program for Diverse Groups (STIPDG) is an important part of U.S. DOT's intermodal effort to promote the entry of women, persons with disabilities, and members of diverse groups into transportation careers where traditionally these groups have been under-represented. Accordingly, The Federal Highway

Administrations' Office of Innovative Program Delivery will support the STIPDG by working closely with FHWA's Office of Human Resources, specifically the Corporate Recruitment and Career Entry Group, which has responsibility for administering the program, to include participation and placement of college students, DOT-wide, and for all occupational disciplines, to include summer intern placement DOT-wide and nationwide. The STIPDG anticipates accepting approximately 500 applications each year and placing an estimated 60–120 undergraduate, graduate, and law students in transportation-related, non-administrative, technical, hands-on assignments with a Federal or State mentor providing on-the- job training. The STIPDG will provide college students with an opportunity to work on current transportation-related topics and issues identified in, or directly pertaining to, the current DOT Strategic Plan. The STIPDG is open to all qualified applicants regardless of race, color, religion, sex, national origin, political affiliation, sexual orientation, marital status, disability, age, membership in an employee organization, or other non-merit factor.

The STIPDG is open to all applicants based on the eligibility requirements that follow and based on the merit of the ''Required Documents'' listed in bulleted-format below:

1. Applicants must be currently enrolled in degree-granting programs of study at accredited U.S. institutions of higher education recognized by the U.S. Department of Education.

2. Undergraduate applicants must *be juniors or seniors for the fall following the summer internship.* Undergraduate applicants from Junior, Tribal, or Community Colleges *must have completed their first year.*

3. Law Applicants must be *entering their second or third year of law school in the fall following the summer internship.*

4. Applicants who are scheduled to graduate during the coming spring or summer semesters are not eligible for consideration for the STIPDG *unless:* (1) They have been accepted for graduate school enrollment; (2) they have been accepted for enrollment at an institution of higher education; or (3) their acceptance is pending. *In all instances, the applicant must submit with their completed application packages, documentation (with the school's logo) reflecting their status.* (There will be no exceptions.)

5. Former STIPDG interns may apply but will not receive preferential consideration.

6. Applicants will be evaluated based on the ''completeness of the application and the Required Documents'' listed below. Priority will be given to those with GPA's of 3.0 or better (for the Major and/or cumulatively).

7. Applicants must be available and able to participate in the entire 10-week program.

Respondents: Approximately 500 applicants consisting of undergraduate, graduate and law students. All applicants must be U.S. Citizens.

Frequency: Annually.

Estimated Average Burden per Response: Approximately two hours to complete and submit the application.

Estimated Total Annual Burden Hours: Approximately 1000 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: December 11, 2017.

Michael Howell,

Information Collection Officer.

[FR Doc. 2017–27178 Filed 12–15–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) announces that the aggregate amounts of assistance available under the Specially Adapted Housing (SAH) grant program will increase by 4.88 percent for Fiscal Year (FY) 2018.

FOR FURTHER INFORMATION CONTACT: Andrew Trevayne, Assistant Director, Loan Guaranty (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8795. (This is not a toll-free number.)

DATES: *Effective Date:* This notice is applicable December 18, 2017.

Applicability Date: The provisions of this notice shall apply on October 1, 2017.

SUPPLEMENTARY INFORMATION: In accordance with 38 U.S.C. 2102(e) and 38 U.S.C. 2102A(b)(2) and 38 CFR 36.4411, the Secretary of Veterans Affairs announces for FY 2018 the aggregate amounts of assistance available to veterans and servicemembers eligible for SAH program grants.

The Housing and Economic Recovery Act of 2008 authorized the Secretary to increase the aggregate amounts of SAH assistance annually based on a residential home cost-of-construction index. Public Law 110–289, § 2605, 122 Stat. 2654, 2861. Per 38 CFR 36.4411(a), the Secretary uses the Turner Building Cost Index for this purpose.

In the most recent quarter for which the Turner Building Cost Index is available, 2nd Quarter 2017, the index showed an increase of 4.88 percent over the index value listed by 2nd Quarter 2016. Pursuant to 38 CFR 36.4411(a), therefore, the aggregate amounts of assistance for SAH grants made pursuant to 38 U.S.C. 2101(a) and 2101(b) will increase by 4.88 percent for FY 2018.

The Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, requires that the same percentage of increase apply to grants authorized pursuant to 38 U.S.C. 2102A. Public Law 112–154, § 205, 126 Stat. 1165, 1178. As such, the maximum amount of assistance available under these grants, which are called grants for Temporary Residence Adaptation (TRA grants), will also increase by 4.88 percent for FY 2018.

The increases are effective as of October 1, 2017. See 38 U.S.C. 2102(e) and 2102A(b)(2).

Specially Adapted Housing: Aggregate Amounts of Assistance Available During Fiscal Year 2018

2101(a) Grants and TRA Grants

Effective October 1, 2017, the aggregate amount of assistance available for SAH grants made pursuant to 38 U.S.C. 2101(a) will be $81,080 during FY 2018. The maximum TRA grant made to an individual who satisfies the eligibility criteria under 38 U.S.C. 2101(a) and 2102A will be $35,593 during FY 2018.

2101(b) Grants and TRA Grants

Effective as of October 1, 2017, the aggregate amount of assistance available for SAH grants made pursuant to 38 U.S.C. 2101(b) will be $16,217 during FY 2018. The maximum TRA grant made to an individual who satisfies the eligibility criteria under 38 U.S.C. 2101(b) and 2102A will be $6,355 during FY 2018.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on December 6, 2017, for publication.

Dated: December 6, 2017.

Jeffrey Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–27162 Filed 12–15–17; 8:45 am]

BILLING CODE 8320–01–P

Reader Aids

Federal Register

Vol. 82, No. 241

Monday, December 18, 2017

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