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Presidential Documents

Title 3—

The President

Proclamation 9802 of October 8, 2018

Leif Erikson Day, 2018

By the President of the United States of America

A Proclamation

More than a millennium ago, Leif Erikson sailed across the frigid Atlantic and set foot on North America, likely becoming the first European to reach our continent. On Leif Erikson Day, we celebrate the extraordinary journey made by this son of Iceland and grandson of Norway with his crew and recognize the immeasurable contributions that generations of Nordic Americans have made to our Nation.

After converting to Christianity in Norway, ''Leif the Lucky'' set out to bring the Gospel to settlers in his native Greenland. During his extensive travels, he landed on the northern Atlantic coast, expanding mankind's knowledge of then-uncharted territory. Centuries later, many Nordic families followed his example and set sail for America with the same determination and grit. After much struggle and sacrifice, these intrepid men and women arrived on our shores with hope for a better life.

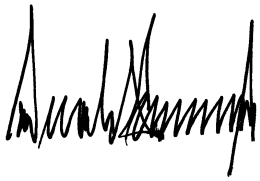
Today, we recognize the descendants of immigrants from Iceland, Norway, Denmark, Sweden, and Finland for the tremendous role they have played in developing the indomitable spirit that defines the American people. Nordic Americans have traveled in space, crisscrossed the globe by single-engine monoplane, and advanced knowledge in science and engineering. Nordic Americans have won Oscars, Grammy Awards, Pulitzer Prizes, and Nobel Prizes. They have fought—and died—in each of our Nation's wars.

We also reflect on the deep and enduring ties we have with the Nordic countries. They are among our greatest allies in the fight against terrorism, and they are important trading partners. We renew our commitment to continue strengthening these transatlantic relationships.

To honor Leif Erikson and celebrate our Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President of the United States to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 9, 2018, as Leif Erikson Day. I call upon all Americans to celebrate the contributions of Nordic Americans to our Nation with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No.FAA–2017–1127; Notice No. 29–044–SC]

Special Conditions: Bell Helicopter Textron, Inc. (BHTI), Model 525 Helicopters; Flight Envelope Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the BHTI Model 525 helicopter. This helicopter will have a novel or unusual design feature associated with fly-by-wire flight control system (FBW FCS) flight envelope protection. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: These special conditions are effective November 13, 2018.

FOR FURTHER INFORMATION CONTACT: George Harrum, Aerospace Engineer, FAA, Rotorcraft Standards Branch, Policy and Innovation Division, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4087; email *George.Harrum@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2011, BHTI applied for a type certificate for a new transport category helicopter designated as the Model 525. The Model 525 is a medium twin-engine rotorcraft. The design maximum takeoff weight is 20,500 pounds, with a maximum capacity of 19 passengers and a crew of 2.

The BHTI Model 525 helicopter will be equipped with a four axis full authority digital FBW FCS that provides for aircraft control through pilot input and coupled flight director modes. The FBW FCS will contain an advanced flight control system that will alter the nominal flight control laws to ensure that the aircraft remains in a predetermined flight envelope. These Flight Envelope Protection (FEP) features prevent the pilot or autopilot functions from making control commands that would force the aircraft to exceed its structural, aerodynamic, or operating limits. The design and construction standards, specifically 14 CFR Section 29.779(a), require that movement of the flight controls results in a corresponding sense of aircraft motion in the same axis. The airworthiness standards for an automatic pilot system in Section 29.1329 covers design requirements for basic operation of the system but does not address dynamic flight envelope limitations imposed by the automatic pilot system. Currently there are no specific airworthiness requirements that address FBW FCS FEP in rotorcraft. The special conditions will require the minimum safety standard for the FEP features.

Type Certification Basis

Under the provisions of 14 CFR 21.17, BHTI must show that the Model 525 helicopter meets the applicable provisions of part 29, as amended by Amendment 29–1 through 29–55 thereto. The BHTI Model 525 certification basis date is December 31, 2013, the effective date of application to the FAA.

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

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

In addition to the applicable airworthiness regulations and special conditions, the BHTI Model 525 helicopter must comply with the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

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

Novel or Unusual Design Features

The BHTI Model 525 helicopter will incorporate the following novel or unusual design features: FBW FCS incorporating FEP features. FEP is used to prevent the pilot or an autopilot from making control commands that would force the rotorcraft to exceed its structural, aerodynamic, or operating limits. To accomplish this envelope limiting, the FCS control laws change as the limit is approached or exceeded.

Discussion

These special conditions require the minimum safety standard for the flight envelope protection features. The FEP features must meet requirements for handling qualities, compatibility of flight parameter limit values, response to dynamic maneuvering, and failure modes.

Discussion of Comments

Notice of proposed special conditions No. 29–044–SC for the BHTI Model 525 helicopter was published in the **Federal Register** on June 6, 2018 (83 FR 26226). No comments were received, and the special conditions are adopted as proposed.

Applicability

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

Conclusion

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

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bell Helicopter Textron, Inc., Model 525 helicopters:

Flight Envelope Protection

The Flight Envelope Protection (FEP) features of the flight control system (FCS) must meet the following requirements:

a. Onset characteristics of each envelope protection feature must be smooth, appropriate to the phase of flight and type of maneuver, and not in conflict with the ability of the pilot to satisfactorily change rotorcraft flight path, speed, or attitude within the approved flight envelope.

b. Limit values of protected flight parameters (and if applicable, associated warning thresholds) must be compatible with:

1. Rotorcraft structural limits;
2. Safe and controllable maneuvering of the rotorcraft;
3. Margins to critical conditions. Dynamic maneuvering, airframe and system tolerances (both manufacturing and in-service), and non-steady atmospheric conditions—in any appropriate combination and phase of flight—must not result in a limited flight parameter beyond the nominal design limit value that would cause unsafe flight characteristics;
4. Rotor rotational speed limits;
5. Blade stall limits; and
6. Engine and transmission torque limits.

c. The aircraft must be responsive to pilot-commanded dynamic maneuvering within a suitable range of the parameter limits that define the approved flight envelope.

d. The FEP system must not create unusual or adverse flight characteristics when atmospheric conditions or unintentional pilot action causes the approved flight envelope to be exceeded.

e. When simultaneous envelope limiting is active, adverse coupling or adverse priority must not result.

f. Following a single FEP failure shown to not be extremely improbable, the rotorcraft must:

1. Be capable of continued safe flight and landing;
2. Be capable of initial counteraction of malfunctions without requiring exceptional pilot skill or strength;
3. Be controllable and maneuverable when operated with a degraded FCS, within a practical flight envelope identified in the Rotorcraft Flight Manual;
4. Be capable of prolonged instrument flight without requiring exceptional pilot skill;
5. Meet the controllability and maneuverability requirements of 14 CFR part 29 Subpart B throughout a practical flight envelope; and
6. Be safely controllable following any additional failure or malfunction shown to not be extremely improbable occurring within the approved flight envelope.

Issued in Fort Worth, Texas, on October 3, 2018.

Jorge Castillo,

Acting Manager, Rotorcraft Standards Branch, Policy and Innovation Division, Aircraft Certification Services.

[FR Doc. 2018–22267 Filed 10–11–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No.FAA–2017–1128; Notice No. 29–045–SC]

Special Conditions: Bell Helicopter Textron, Inc. (BHTI), Model 525 Helicopters; Control Margin Awareness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the BHTI Model 525 helicopter. This helicopter will have a novel or unusual design feature associated with the fly-by-wire flight control system (FBW FCS) in the area of pilot awareness of the control margins remaining while maneuvering the helicopter. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: These special conditions are effective November 13, 2018.

FOR FURTHER INFORMATION CONTACT: George Harrum, Aerospace Engineer, FAA, Rotorcraft Standards Branch, Policy and Innovation Division, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4087; email *George.Harrum@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2011, BHTI applied for a type certificate for a new transport category helicopter designated as the Model 525. The Model 525 is a medium twin-engine rotorcraft. The design maximum takeoff weight is 20,500 pounds, with a maximum capacity of 19 passengers and a crew of 2.

The BHTI Model 525 helicopter will be equipped with a four-axis full authority digital FBW FCS that provides for aircraft control through pilot input and coupled flight director modes. The current 14 CFR part 29 regulations do not contain adequate standards for FBW FCS with respect to control margin awareness. The airworthiness standards for controllability and maneuverability of the rotorcraft are contained in § 29.143. These controllability requirements are compatible with most FBW systems, while most of the maneuverability requirements are not affected by FBW systems, except for the control margins. One of the purposes of the rule is to ensure that control margins (at the rotor and the anti-torque system level) are sufficient in the defined flight envelope to avoid loss of control (that is, the rotorcraft has adequate control power for the pilot to exit potentially hazardous flight conditions). Implicit in this purpose is that the pilot is provided with sufficient awareness of proximity to control limits. Because § 29.143 was written to address hydro-mechanical flight control systems, through which pilot awareness of control margins is provided by cyclic and pedal position relative to cockpit control stops, the rule is inadequate for certification of a FBW FCS, where there is no mechanical link between the inceptor and the receptor. Without a constant correlation between cockpit control and main or tail rotor actuator positions, the FCS may not provide tactile control margin feedback to the pilot through cockpit control position relative to the control position physical stop or limit, for all flight conditions. The special conditions will require the minimum safety standard to ensure awareness of proximity to control limits at the main rotor and tail rotor is provided to pilots of the Bell Model 525 helicopter.

Type Certification Basis

Under the provisions of 14 CFR 21.17, BHTI must show that the Model 525 helicopter meets the applicable

provisions of part 29, as amended by Amendment 29–1 through 29–55 thereto. The BHTI Model 525 certification basis date is December 31, 2013, the effective date of application to the FAA.

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

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

In addition to the applicable airworthiness regulations and special conditions, the BHTI Model 525 helicopter must comply with the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

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

Novel or Unusual Design Features

The BHTI Model 525 helicopter incorporates the following novel or unusual design features: A four-axis full authority digital FBW FCS. Pilot control inputs, through the mechanically linked cockpit controls (cyclic, collective, directional pedals), are transmitted electrically to each of the three Flight Control Computers (FCCs). The pilot control input signals are then processed and transmitted to the hydraulic flight control actuators which affect control of the main and tail rotors.

Discussion

These special conditions require the minimum safety standard to ensure awareness of proximity to control limits at the main rotor and tail rotor is provided to pilots of the Bell Model 525 helicopter. The system design must provide the pilot with sufficient awareness of proximity to control limits, traditionally achieved through conventional flight controls by the pilot's inherent awareness of cyclic stick and pedal position relative to control stops.

Discussion of Comments

Notice of proposed special conditions No. 29–045–SC for the BHTI Model 525 helicopter was published in the **Federal Register** on June 6, 2018 (83 FR 26225). No comments were received, and the special conditions are adopted as proposed.

Applicability

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

Conclusion

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

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bell Helicopter Textron, Inc., Model 525 helicopters:

Control Margin Awareness

In addition to the existing § 29.143 requirements, the following special condition applies: The system design must ensure that the flight crew is made suitably aware whenever the means of primary flight control approaches the limits of control authority. For the context of this special condition, the term ''suitable'' indicates an appropriate balance between nuisance and necessary operation.

Issued in Ft Worth, Texas, on October 3, 2018.

Jorge Castillo,

Acting Manager, Rotorcraft Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–22265 Filed 10–11–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0577]

RIN 1625–AA08

Special Local Regulation; Choptank River, Talbot and Dorchester Counties, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Choptank River. This action is necessary to provide for the safety of life on these waters near Oxford, MD, from October 7, 2018, through October 15, 2018, during a sailboat regatta. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective without actual notice from October 12, 2018 through 5:30 p.m. on October 15, 2018. For the purposes of enforcement, actual notice will be used from 11:30 a.m. on October 7, 2018 until October 12, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0577 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On February 13, 2018, the Tred Avon Yacht Club of Oxford, MD, notified the Coast Guard through submission of a marine event application that from October 5, 2018, through October 15, 2018, it will be conducting a sailboat

regatta, the 2018 Star World Championship on the Choptank River, in Talbot and Dorchester Counties, near Oxford, MD. Race activities on navigable waters are planned each afternoon of the regatta beginning on October 7th. In response, on August 17, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulation; Choptank River, Talbot and Dorchester Counties, MD'' (83 FR 41029). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this sailboat regatta. During the comment period that ended September 17, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the date of the event, it would be impracticable and contrary to the public interest to make the regulation effective 30 days after publication in the **Federal Register**. The regulation must be in place by October 7th in order to protect the public from the hazards associated with this sailing regatta. Therefore, the Coast Guard is making this rule effective immediately.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the sailboat regatta will be a safety concern for anyone intending to operate in or near the race area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of the Choptank River before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 17, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation to be enforced from 11:30 a.m. until 5:30 p.m., each day, from October 7, 2018, through October 15, 2018. The regulated area would cover all navigable waters of the Choptank River, within an area bounded by the following coordinates: Commencing at latitude 38°41′39.02″ N, longitude 076°11′19.18″ W, thence south to latitude 38°37′28.68″ N, longitude 076°11′19.18″ W, thence west to latitude 38°37′28.68″ N, longitude 076°18′18.35″ W, thence north to latitude 38°41′39027″ N, longitude 076°18′18.35″ W, thence east to point of origin, located near Oxford, MD. This rule provides additional information about an area within the regulated area, the ''Race Area.'' The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after sail boat races, scheduled from noon until 5 p.m. on October 7, 8, 9, 10, 11, 12, 13, 14, and 15, 2018. Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this special local regulation must immediately depart the regulated area. A spectator must contact the Coast Guard Patrol Commander (PATCOM) to request permission to either enter or pass through the regulated area. The PATCOM can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the regulated area or pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at a safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area. Only participant vessels and official patrol vessels are allowed to enter the race area.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration and location of the regulated area. Vessel traffic will be able to safely transit around this regulated area, which would impact a small designated area of the Choptank River for 54 hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the regulated area. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the PATCOM deems it safe to do so.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States. The temporary regulated area will be enforced daily during a nine-day period during the sailboat regatta. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum For Record for Categorically Excluded Actions supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Add § 100.501T05–0577 to read as follows:

§ 100.501T05–0577 Special Local Regulation; Choptank River, Talbot and Dorchester Counties, MD.

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

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on the COTP's behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official Patrol means a vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the 2018 Star World Championship regatta or otherwise designated by the regatta's sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as a participant or assigned as an official patrol.

(b) *Locations.* All coordinates reference Datum NAD 1983.

(1) *Regulated area.* All navigable waters of the Choptank River, bounded by a line connecting the following coordinates: Commencing at latitude 38°41′39.02″ N, longitude 076°11′19.18″ W, thence south to latitude 38°37′28.68″ N, longitude 076°11′19.18″ W, thence west to latitude 38°37′28.68″ N, longitude 076°18′18.35″ W, thence north to latitude 38°41′39027″ N, longitude 076°18′18.35″ W, thence east to point of origin, located near Oxford, MD. The following location is within the regulated area:

(2) *Race area.* The race area is a circle in shape with its center located at position latitude 38°39′48.00″ N, longitude 076°15′03.42″ W. The area is bounded by a line measuring approximately 2.5 nautical miles in diameter.

(c) *Special local regulations.* (1) The COTP Maryland-National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area must immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the regulated area or pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at a safe speed that minimizes wake. A

spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) Only participant vessels and official patrol vessels are allowed to enter the race area.

(5) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the PATCOM on Marine Band Radio, VHF–FM channel 16 (156.8 MHz).

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement periods.* This section will be enforced during each of the following times:

(1) From 11:30 a.m. until 5:30 p.m. on October 7, 2018.

(2) From 11:30 a.m. until 5:30 p.m. on October 8, 2018.

(3) From 11:30 a.m. until 5:30 p.m. on October 9, 2018.

(4) From 11:30 a.m. until 5:30 p.m. on October 10, 2018.

(5) From 11:30 a.m. until 5:30 p.m. on October 11, 2018.

(6) From 11:30 a.m. until 5:30 p.m. on October 12, 2018.

(7) From 11:30 a.m. until 5:30 p.m. on October 13, 2018.

(8) From 11:30 a.m. until 5:30 p.m. on October 14, 2018.

(9) From 11:30 a.m. until 5:30 p.m. on October 15, 2018.

Dated: September 26, 2018.

Joseph B. Loring,

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

[FR Doc. 2018–22224 Filed 10–11–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0922]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, in Portland, OR. The deviation is necessary to support the Run Like Hell half marathon run event. This deviation allows the upper lift span of the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 8 a.m. to 11:30 a.m. on October 21, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0922, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Company (UPRR) owns and operates the Steel Bridge across the Willamette River, at mile 12.1, in Portland, OR. UPRR has requested a temporary deviation from the operating schedule for the Steel Bridge upper lift span. The deviation is necessary to accommodate the annual Run Like Hell half marathon run event. The Steel Bridge is a double-deck lift bridge and the lower lift span operates independent of the upper lift span. To facilitate this temporary deviation request, the upper lift span is authorized to remain in the closed-to-navigation position, and need not open to marine vessels from 8 a.m. to 11:30 a.m. on October 21, 2018. When the lower span is in the closed-to-navigation position, the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the upper span is in the closed-to-navigation position, and the lower span is in the open-to-navigation position, the vertical clearance is 71 feet above Columbia River Datum 0.0. The lower lift span of the Steel Bridge operates in accordance with 33 CFR 117.5.

Waterway usage on this part of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Vessels able to pass through the subject bridge with the lower deck in the closed-to-navigation position, or in the open-to-navigation position may do so at any time. The lower and upper lift of the Steel Bridge will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard requested objections from known river users groups to this deviation via email. We have not received any objections to this temporary deviation from the operating schedule. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the subject bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: October 5, 2018.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2018–22231 Filed 10–11–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0921]

Safety Zone; Lower Mississippi River, Mile Markers 94 to 97 Above Head of Passes

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the navigable waters of the Mississippi River between mile marker (MM) 94 and (MM) 97, above Head of Passes on November 30, 2018, to provide for the safety of persons, vessels, and the marine environment on navigable waterways during a fireworks display.

DATES: The regulations in 33 CFR 165.845 will be enforced from 5:30 p.m. through 7 p.m. on November 30, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Brian Porter, Sector New Orleans Waterways Management, U.S. Coast Guard; telephone 504–365–2375, email *brian.j.porter@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in accordance with the regulations in 33 CFR 165.845 from 5:30 p.m. through 7 p.m. on November 30, 2018. This action is being taken to provide for the safety of persons, vessels, and the marine environment on navigable waters during this event. Our regulation for firework displays on the Mississippi

River in New Orleans specifies the location of the regulated area between mile marker 94 and 97 above Head of Passes on the Lower Mississippi River. During the enforcement period, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of the enforcement period via the Local Notice to Mariners, and marine information broadcasts.

Dated: October 4, 2018.

K.M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2018–22225 Filed 10–11–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0578; FRL–9985–26–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Attainment Plan for the Warren County, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision, submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP), to EPA on September 29, 2017, for the purpose of demonstrating attainment of the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) in the Warren County, Pennsylvania SO_2 nonattainment area (hereafter referred to as the ''Warren Area'' or ''Area''). The Warren Area is comprised of a portion of Warren County (Conewango Township, Glade Township, Pleasant Township, and the City of Warren) in Pennsylvania surrounding the United Refining Company (hereafter referred to as ''United Refining''). The SIP submission is an attainment plan which includes the base year emissions inventory, an analysis of the reasonably available control technology (RACT) and reasonably available control measure (RACM) requirements, enforceable emission limitations and other control measures, a reasonable further progress (RFP) plan, a modeling demonstration of SO_2 attainment, contingency measures, and a nonattainment new source review (NNSR) program for the Warren Area. As part of approving the attainment plan, EPA is also approving into the Pennsylvania SIP new SO_2 emission limits and associated compliance parameters for United Refining. EPA is approving Pennsylvania's attainment plan and concludes that the Warren Area will attain the 2010 1-hour primary SO_2 NAAQS by the applicable attainment date and that the plan meets all applicable requirements under the Clean Air Act (CAA).

DATES: This final rule is effective on November 13, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0578. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Megan Goold, (215) 814–2027, or by email at *goold.megan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background and Purpose
II. Response to Comments
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

On June 2, 2010, the EPA Administrator signed a final rule establishing a new SO_2 primary NAAQS as a 1-hour standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations. *See* 75 FR 35520 (June 22, 2010), codified at 40 CFR 50.17. This action also revoked the existing 1971 primary annual and 24-hour standards, subject to certain conditions.[1] EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with short-term exposures to SO_2 emissions ranging from 5 minutes to 24 hours with an array of adverse respiratory effects including narrowing of the airways which can cause difficulty breathing (bronchoconstriction) and increased asthma symptoms. For more information regarding the health impacts of SO_2, please refer to the June 22, 2010 final rulemaking. *See* 75 FR 35520. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1)–(2) of the CAA. On August 5, 2013, EPA promulgated initial air quality designations for 29 areas for the 2010 SO_2 NAAQS (78 FR 47191), which became effective on October 4, 2013, based on violating air quality monitoring data for calendar years 2009–2011, where there were sufficient data to support a nonattainment designation.[2]

Effective on October 4, 2013, the Warren Area was designated as nonattainment for the 2010 SO_2 NAAQS for an area that encompasses the primary SO_2 emitting source, United Refining, and the nearby SO_2 monitor (Air Quality Site ID: 42–123–0004). The final designation triggered a requirement for Pennsylvania to submit a SIP revision with an attainment plan for how the Area would attain the 2010 SO_2 NAAQS as expeditiously as practicable, but no later than October 4, 2018, in accordance with CAA section 192(a).

For a number of areas, including the Warren Area, EPA published a notice on March 18, 2016, that Pennsylvania and other pertinent states had failed to submit the required SO_2 attainment plan

[1] EPA's June 22, 2010, final action revoked the two 1971 primary 24-hour standard of 140 ppb and the annual standard of 30 ppb because they were determined not to add additional public health protection given a 1-hour standard at 75 ppb. *See* 75 FR 35520. However, the secondary 3-hour SO_2 standard was retained. Currently, the 24-hour and annual standards are only revoked for certain of those areas the EPA has already designated for the 2010 1-hour SO_2 NAAQS. *See* 40 CFR 50.4(e).

[2] EPA is continuing its designation efforts for the 2010 SO_2 NAAQS. Pursuant to a court-order entered on March 2, 2015, by the U.S. District Court for the Northern District of California, EPA must complete the remaining designations for the rest of the country on a schedule that contains three specific deadlines. *Sierra Club, et al.* v. *Environmental Protection Agency,* 13–cv–03953–SI (2015).

by this submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions. However, pursuant to Pennsylvania's submittal of September 29, 2017, and EPA's subsequent letter dated October 5, 2017 to Pennsylvania, finding the submittal complete and noting the stopping of the sanctions deadline, these sanctions under section 179(a) will not be imposed as a consequence of Pennsylvania having missed the SIP submission deadline. Additionally, under CAA section 110(c), the March 18, 2016 finding triggered a requirement that EPA promulgate a Federal implementation plan (FIP) within two years of the effective date of the finding unless, by that time, the State has made the necessary complete submittal and EPA has approved the submittal as meeting applicable requirements. This FIP obligation will not apply once this SIP approval action is finalized.

Attainment plans for SO_2 must meet the applicable requirements of the CAA, and specifically CAA sections 110, 172, 191, and 192. The required components of an attainment plan submittal are listed in section 172(c) of Title I, part D of the CAA, and in EPA's implementing regulations at 40 CFR part 51. On April 23, 2014, EPA issued recommended guidance (hereafter 2014 SO_2 Nonattainment Guidance) for how state submissions could address the statutory requirements for SO_2 attainment plans.[3] In this guidance, EPA described the statutory requirements for an attainment plan, which include: An accurate base year emissions inventory of current emissions for all sources of SO_2 within the nonattainment area (172(c)(3)); An attainment demonstration that includes a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the State will provide for expeditious attainment of the NAAQS (172(c)); demonstration of RFP (172(c)(2)); implementation of RACM, including RACT (172(c)(1)); NNSR requirements (172(c)(5)); and adequate contingency measures for the affected area (172(c)(9)).

On March 22, 2018 (83 FR 12516), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania proposing approval of the Warren area attainment plan. In accordance with section 172(c) of the CAA, the Pennsylvania attainment plan for the Warren Area includes: (1) An emissions inventory for SO_2 for the plan's base year (2011); and (2) an attainment demonstration. The attainment demonstration includes the following: Analyses that locate, identify, and quantify sources of emissions contributing to violations of the 2010 SO_2 NAAQS; a determination that the control strategy for the primary SO_2 source within the nonattainment areas constitutes RACM/RACT; a dispersion modeling analysis of an emissions control strategy for the primary SO_2 source (United Refining), which also accounts for smaller sources within the Area in the background concentration, showing attainment of the SO_2 NAAQS by the October 4, 2018 attainment date; requirements for RFP toward attaining the SO_2 NAAQS in the Area; contingency measures; the assertion that Pennsylvania's existing SIP-approved NNSR program meets the applicable requirements for SO_2; and the request that emission limitations and compliance parameters for United Refining be incorporated into the SIP. Comments on EPA's proposed rulemaking were due on or before April 23, 2018.

EPA received 28 anonymous comments that were not germane to this rulemaking action and will not be addressed here. EPA received specific comments on this rulemaking action on nine topics. All comments are available in the docket for this final rulemaking action. EPA's summary of the comments and EPA's responses are provided below. For a comprehensive discussion of Pennsylvania's SIP submittal and EPA's analysis and rationale for approval of the State's submittal and attainment demonstration for this area, please refer to EPA's March 22, 2017 NPRM. The remainder of this action contains EPA's response to public comments and provides EPA's final approval of Pennsylvania's attainment plan for the Warren Area.

II. Response to Comments

A summary of the comments received and EPA's responses are provided in this Section of this rulemaking action. The Sierra Club submitted a comment letter dated April 23, 2018, which contained five substantive comments summarized in comments one through five. Comments labeled six through nine were received from anonymous commenters and a citizen of Warren County, Pennsylvania. Where comments contained similar topics, they were grouped accordingly. To review the full set of comments received, refer to the Docket for this rulemaking action.

Comment 1: The commenter asserts that the emission limits for United Refining would allow emissions above levels reflected in both the 2018 projected emissions inventory and the 2011 baseline emissions inventory. The commenter states that the Attainment Plan for the Warren Area should not be approved because it fails to provide an air quality modeling analysis that demonstrates that the emission limits in the plan will suffice to provide for timely attainment of the 2010 SO_2 NAAQS, including ''necessary enforceable limits'' sufficient to ensure that the standard is attained and maintained. The commenter states that the emission limits that EPA proposes to approve would allow emissions higher than those that occurred in 2011 when the monitored design value for Warren County was 112 ppb.

Response 1: EPA disagrees that the Warren Area Attainment Plan should not be approved because the emission limits and air quality modeling analysis would not ensure that the 2010 SO_2 NAAQS is attained and maintained. As described in EPA's NPRM, the hourly emission limits developed for United Refining have been modeled to show attainment with the 2010 SO_2 NAAQS. As described in appendix W to 40 CFR part 51 (hereafter appendix W) and the EPA's 2014 SO_2 Nonattainment Guidance, the attainment plan should demonstrate through the use of air quality dispersion modeling, using allowable hourly emissions, that the area will attain the standard by its attainment date. The modeling analysis, which EPA found reasonable and in accordance with EPA guidance as discussed in the NPRM in detail, provides for attainment considering the worst-case scenario of both the meteorology and the maximum allowable emissions. The modeling demonstration provided by Pennsylvania followed the recommendations outlined in appendix W and the 2014 SO_2 Nonattainment Guidance.

In addition, under CAA Section 172(c)(3) and as described in EPA's NPRM, states are required to submit a comprehensive, accurate, current accounting of actual emissions from all sources (point, nonpoint, nonroad, and onroad) of the relevant pollutant or pollutants in the nonattainment area. In this case, the base year inventory is representative of actual emissions for 2011, and the 2018 projected inventory is a projection based off 2011 base year emissions and business projections. As the commenter correctly noted, the emission limits for United Refining (which are hourly limits expressed in

[3] *See* ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (April 23, 2014), available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

pounds per hour (lbs/hr)) can be converted to an annual value, which equates to approximately 1,274 tons per year (tpy), assuming 8,760 hours of operation. This value is considered the maximum allowable emissions on an annual time frame. As the commenter correctly asserts, the maximum allowable annual emissions for 2018 are greater than the 2011 base year emissions (992 tpy) and the emissions in the 2018 projected inventory (510 tpy); however, the modeled hourly emission limits at United Refining are more stringent than the hourly emission limits that were in place in the 2011 base year. In 2011, a facility-wide SO_2 emissions cap of 902.6 lbs/hr was in place at United Refining, as well as unit-specific hourly SO_2 emission limits as specified in the PADEP's SO_2 Plan Approval for United Refining.[4] In the Warren Attainment Plan, PADEP has adopted new, more stringent unit-specific hourly emission limits that add up to approximately 291 lbs/hr (approximately one third of the previous hourly facility-wide limit). The hourly emission limit for United Refining is in accordance with EPA's recommendation that emission limits for attaining the 1-hour 2010 SO_2 NAAQS should limit emissions for each hour (and not on an annual basis).

While the calculated annual maximum 2018 emissions using the hourly limit exceed the 2011 inventory on an annual basis and exceed the projected 2018 emissions inventory, our approval of the Warren Area attainment plan, and the modeling demonstration, is based on modeling using hourly limits (not annual values) in accordance with CAA requirements and EPA guidance. Furthermore, as explained in the NPRM and the Modeling Technical Support Document (TSD), which can be found under Docket ID No. EPA–R03–OAR–2017–0578 and at *www.regulations.gov,* Pennsylvania's modeling demonstration was conducted in accordance with CAA requirements and thus, is approvable under CAA Section 172. The attainment modeling demonstrates that the newly adopted hourly emission limit for United Refining provides for protection of the 1-hour SO_2 NAAQS.

It is important to note that attainment modeling demonstrations are based on the worst-case emission scenarios, and therefore, demonstrate that if United Refining emitted at their newly established hourly emission limit 8,760 hours per year, they would still reach attainment. Even though the Warren Area design value in 2011 was 94 ppb,[5] and the allowable annual emissions in 2018 are greater than the 2011 base year emissions, that does not mean a violation of the NAAQS will occur in 2018 (as the commenter erroneously asserts). In 2011, United Refining was allowed to emit up to 906.2 lbs/hr, and while they obviously did not do this every hour of the year (since their 2011 annual emissions were 992 tons which is less than the allowable 3,951 tons),[6] they could have emitted that much during a short time frame which would have contributed to a design value greater than 75 ppb (as design values are based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations). The commenter asserts that the design value was 112 ppb in 2011 in Warren County, which the commenter also assumes is directly correlated to the annual SO_2 emissions; neither the design value nor this assumption is accurate. It is incorrect to assume that there is a direct relationship between whether a total annual allowable emissions inventory is higher than base year and projected year actual emissions inventories and whether an area will attain the 1-hour NAAQS based on modeling of allowable hourly emission limits. In fact, in assessing whether an emission limit will provide for attainment of the 1-hour NAAQS, the total annual allowable emissions under the limit is not a factor in the modeling analysis, as it is irrelevant to determining whether the 3-year average of the 99th percentile of daily maximum 1-hour average concentrations will meet the NAAQS. Ambient concentrations calculated at hourly intervals are correlated with hourly emissions and not annual emissions; and the hourly emission limits set for United Refining in the Consent Order and Agreement (COA) were modeled to show attainment of the SO_2 NAAQS.

In addition, as noted in EPA's NPRM and as required in the COA, United Refining switched from high sulfur content (2.8 percent (%) sulfur) fuel oil to lower sulfur content fuel oil (0.5%) in 11 combustion units and heaters, which decreased SO_2 emissions. As specified in the COA, United Refining increased its use of a flue gas desulfurization additive (De-Sox) for the fluid catalytic cracking (FCC) unit, which also decreased SO_2 emissions. These enforceable control measures and the enforceable emission limits, along with compliance parameters, are specified in the COA with United Refining which Pennsylvania requested us to incorporate into the SIP. The SO_2 limits in the COA and in United Refining's permit support the modeling demonstration which shows the Warren Area attaining the 2010 SO_2 NAAQS. That is, regardless of how the annual total allowable emissions under Pennsylvania's SIP (assuming 8,760 hours per year of operation at that limit) compare to Pennsylvania's estimate of 2011 and 2018 emissions for this facility, the SIP is requiring control measures that will reduce emissions, and Pennsylvania has demonstrated that the emission limitations that produce these emission reductions will improve air quality sufficiently to attain the standard.

Comment 2: The commenter claims that EPA has relied on a modeled attainment analysis that barely attains the standard, and does so with the use of an incorrect background concentration, which was calculated contrary to EPA's Modeling Guidance. The commenter asserts that relying on the average value from a single month of data is not representative of background. The commenter asserts that even if the monthly data were representative, the 99th percentile daily maximum value should have been used as the background concentration (as opposed to the average value). The commenter states that using the 99th percentile daily maximum value of 6 ppb rather than the average value of 2.19 ppb background used by PADEP, results in a modeled design value of 78.5 ppb.

Response 2: EPA disagrees with the commenter's arguments, and has determined that the 2.19 ppb background level used by PADEP appropriately represents background concentrations in the Area. As explained in the NPRM and Modeling TSD, Pennsylvania's proposed background concentration used in its modeling demonstration is reasonable and reflective of true background concentrations in the Warren Area. EPA found in the NPRM and in the Modeling TSD, that the background concentration used in the air-dispersion modeling analysis for the Warren, Pennsylvania 1-hour SO_2 nonattainment area was reasonable and was determined in accordance with EPA's Appendix W—

[4] *See* PADEP's SO_2 Plan Approval for United Refining, 2001. Available at *https://www.epa.gov/sites/production/files/2017-06/documents/united_refining.pdf.*

[5] EPA data shows the 99th percentile daily maximum in 2011 for the Warren Area was 94 ppb, and the 2011 3-year design value was 105 ppb. EPA does not know how the commenter calculated a 112 ppb design value for 2011 for the Warren Area. *https://www.epa.gov/air-trends/air-quality-design-values#report.*

[6] Annual allowable emissions for United Refining assuming 906.2 lbs/hr operating 8760 hours per year.

Guideline on Air Quality Models. EPA believes section 8.3.2 (c) of appendix W provides flexibility in determining the model background concentration and allows for methods other than using a monitor design value as long as the method is fully described and vetted with the reviewing authorities and is judged to provide an appropriate assessment of background concentrations. In this case, the availability of monitored values during a time period of little to no operation of the United Refinery provided a unique opportunity to develop a background concentration. Since the nonattainment area has only one primary SO_2 source it was reasonable to assume monitor concentrations within the nonattainment area during this time period would be indicative of the Area's background concentration. This background concentration was compared to other regional values for areas with similar source distributions and shown to be comparable in magnitude. While this approach is not specifically included in EPA's list of possible examples in appendix W, it was fully vetted by the proper reviewing authority as required by appendix W. The development of this background concentration is more fully described in section 4.7 of United Refinery's February 2017 modeling protocol (see Appendix C–3 of Pennsylvania's SIP documentation) and it has been vetted and approved by EPA in this rulemaking action.

In addition, the commenter's assertion that the 99th percentile value of the monitored daily maximum concentrations during the United Refinery's turnaround period should be used as background as opposed to the average value is not supported by any data or reasoning. There are no stipulations in appendix W that require background concentrations to be based on the 99th percentile of concentrations. Background concentrations must represent the ambient concentrations without the source in question. As discussed in Appendix C–3 of Pennsylvania's submittal, during the turnaround period, the United Refinery was mostly off, however, certain maintenance activities occurred which produced SO_2 emissions. By taking the average of the daily maximum values, impacts from SO_2 emissions generated by the maintenance activities (as detailed in Appendix C–3 of Pennsylvania's submittal) would have been minimized and values would be more reflective of true background concentrations in the area. As specified in Appendix C–3 of Pennsylvania's submittal, use of other statistical calculations such as the 99th percentile would include the discrete periods where turnaround activity SO_2 emissions were impacting the Warren-Overlook ambient monitor. EPA continues to find Pennsylvania's use of average concentrations (instead of the 99th percentile) reasonable because it is within permissible discretion of appendix W, not prohibited by 2014 SO_2 Nonattainment Guidance or appendix W, and because the 99th percentile was affected by some minor operations of the United Refinery that occurred during the shutdown.

EPA has provided additional information supporting our initial determination that the background value utilized in the Warren attainment demonstration is reasonable in a supplemental TSD, which can be found under Docket ID No. EPA–R03–OAR–2017–0578 and at *www.regulations.gov.* The supporting information provides an updated comparison of the background concentration used in the Warren modeling analysis to regional SO_2 monitored values which shows that the background concentration of 2.19 ppb used by Pennsylvania is similar to monitored values in a nearby similar location to the Area which supports the data used by Pennsylvania for background. The TSD also includes a discussion of the overall downward SO_2 emission trends across the United States, resulting from declining consumption of coal as a fuel source by electricity generating plants that are the primary sources of background SO_2 emissions, lending more support to the assertion that background concentrations are falling and 2.19 ppb is a reasonable background for the Warren Area. In addition to emission trends, the SO_2 ambient concentration trend in the Northeast (which includes Pennsylvania and New York) mirrors the national trend showing an 84% reduction in ambient SO_2 concentrations from 2000–2017.[7]

EPA thus continues to find it reasonable for Pennsylvania to use a background concentration that is based on monitored data from a period when the refinery was shut down because the data used does not include emissions from the primary source (as specified in appendix W), the data are similar to data from nearby areas and based on SO_2 emission trends we do not expect background concentrations to go up in the future. In addition, 2017 monitored SO_2 concentrations do not show the Warren Area to be violating the 1-hour SO_2 NAAQS.

Comment 3: The commenter claims that the contingency measures specified in the Warren Attainment Plan are inadequate because they are not specific, do not take effect automatically, and count back-to-back days of exceedances as a single day. Per the commenter, the NAAQS is designed to prevent repeated days of high ambient SO_2 concentrations and back-to-back days of exceedances would ''potentially allow exceedances of the 99th-percentile evaluative criteria for the NAAQS to be met long before any even theoretical remedial effects of the contingency measure could accrue at all.'' The commenter states the ''measure'' is nothing more than requiring United Refining to issue a report including unknown proposed operation changes. The commenter states this lack of specificity is plainly inconsistent with CAA requirements.

Response 3: EPA disagrees with the commenter that the contingency measures are inadequate. Section 172(c)(9) of the CAA defines contingency measures as such measures in a SIP that are to be implemented in the event that an area fails to make RFP, or fails to attain the NAAQS, by the applicable attainment date. Contingency measures are to become effective without further action by the State or EPA, where the area has failed to (1) achieve RFP or, (2) attain the NAAQS by the statutory attainment date for the affected area. These control measures are to consist of other available control measures that are not included in the control strategy for the attainment plan SIP for the affected area.

However, EPA has also explained that SO_2 presents special considerations.[8] First, for some of the other criteria pollutants, the analytical tools for quantifying the relationship between reductions in precursor emissions and resulting air quality improvements remains subject to significant uncertainties, in contrast with procedures for directly-emitted pollutants such as SO_2. Second, emission estimates and attainment analyses for other criteria pollutants can be strongly influenced by overly optimistic assumptions about control

[7] *https://www.epa.gov/air-trends/sulfur-dioxide-trends#soreg.* Nationally, a 79% decrease in ambient monitor concentrations of SO_2 has been observed from 2000–2017.

[8] *See* SO_2 Guideline Document, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, EPA–452/R–94–008, February 1994. *See also* EPA's 2014 SO_2 Nonattainment Guidance.

See General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 at 57 FR 13498 (April 16, 1992).

efficiency and rates of compliance for many small sources. This is not the case for SO_2.

In contrast, the control efficiencies for SO_2 control measures are well understood and are far less prone to uncertainty. Since SO_2 control measures are by definition based on what is directly and quantifiably necessary to attain the SO_2 NAAQS, it would be unlikely for an area to implement the necessary emission controls yet fail to attain the NAAQS. Therefore, for SO_2 programs, EPA has explained that ''contingency measures'' can mean that the air agency has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an ''aggressive'' follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreements pending the adoption of the revised SIP. EPA believes that this approach continues to be valid for the implementation of contingency measures to address the 2010 SO_2 NAAQS, and consequently concludes that Pennsylvania's comprehensive enforcement program, as discussed below, satisfies the contingency measure requirement. This approach to contingency measures for SO_2 does not preclude an air agency from requiring additional measures that are enforceable and appropriate for a particular source category if the State determines such supplementary measures are appropriate. As EPA has stated in our reasonable interpretation of contingency measures for areas coming into attainment with the 2010 SO_2 NAAQS, in order for EPA to be able to approve the SIP, the supplementary contingency measures would need to be a fully adopted provision in the SIP that becomes effective where the area has failed to meet RFP or fails to attain the standard by the statutory attainment date. The supplementary contingency measures proposed for the Warren Area are in the COA we are incorporating into the Pennsylvania SIP and thus will be fully approved provisions within the SIP.

As noted in EPA's NPRM, EPA's 2014 SO_2 Nonattainment Guidance describes special features of SO_2 planning that influence the suitability of alternative means of addressing the requirement in section 172(c)(9) for contingency measures including a comprehensive enforcement program. Pennsylvania has a comprehensive enforcement program as specified in Section 4(27) of the Pennsylvania Air Pollution Control Act (APCA), 35 P.S. section 4004(27). Under this program, PADEP is authorized to take any action it deems necessary or proper for the effective enforcement of the Act and the rules and regulations promulgated under the Act. Such actions include the issuance of orders (for example, enforcement orders and orders to take corrective action to address air pollution or the danger of air pollution from a source) and the assessment of civil penalties. Sections 9.1 and 10.1 of the APCA, 35 P.S. sections 4009.1 and 4010.1, also expressly authorize PADEP to issue orders to aid in the enforcement of the APCA and to assess civil penalties.

Any person in violation of the APCA, rules and regulations, any order of PADEP, or plan approval or operating permit conditions would also be subject to criminal fines upon conviction under Section 9, 35 P.S. section 4009. Section 7.1 of the APCA, 35 P.S. section 4007.1, prohibits PADEP from issuing plan approvals and operating permits for any applicant, permittee, or a general partner, parent or subsidiary corporation of the applicant or the permittee that is placed on PADEP's Compliance Docket until the violations are corrected to the satisfaction of PADEP.

EPA concludes that Pennsylvania's enforcement program by itself suffices to satisfy the contingency measure requirements. Therefore, notwithstanding Sierra Club's concerns about the specificity and triggering of the supplementary measures identified in the United Refining COA, EPA believes that Pennsylvania's enforcement program, which is enhanced by the supplementary provisions in the United Refining COA, suffice to meet Section 172(c)(9) requirements as interpreted in the 1992 General Preamble and the 2014 SO_2 Nonattainment Guidance.

Comment 4: The commenter asserts that EPA's proposed rulemaking includes an improper reference to the Indiana Area in Part III. Section A.

Response 4: EPA agrees with the commenter that the term Indiana Area was inadvertently included in Part III. Section A. of the NPRM. The language should have read, ''Pennsylvania's attainment plan appropriately considered SO_2 emissions for the Warren Area.''

Comment 5: The commenter asserts that PADEP erroneously calculated emissions of road and non-road sources of 1.380 and 0.337 tons, respectively. They assert that the National Emissions Inventory suggests those same emissions categories were closer to 4.28 and 0.781 tons, respectively. The commenter states that while the Warren Nonattainment Area does not comprise the entirety of Warren County, it does include the vast majority of the county, including the more developed portions, rendering the extremely large emissions discrepancies to be quite concerning.

Response 5: EPA disagrees with the commenter. The methodologies used to determine the onroad and nonroad emissions were reviewed and deemed reasonable by EPA. The nonroad emissions are calculated for the nonattainment area (NAA) by using proportional population for the four municipalities that comprise the NAA. Using the 2010 census, approximately 43.18 percent of the population of Warren County lives within the Warren NAA, therefore the total nonroad emissions for the county (0.781 tpy) were multiplied by the percent of the population (43.18%) to get nonroad emissions for the NAA (0.337 tpy). The onroad emissions were calculated using the EPA's MOVES2014 emissions model. The inputs used in the model account for vehicle activity data within the four municipalities within the NAA. The onroad and nonroad emissions contribute to 0.17% and 0.031%, respectively, of the total emissions in the NAA. As stated in the NPRM, EPA reviewed the methodologies for the development of the base year inventory and found them to be reasonable.

Comment 6: The commenter states that EPA's claim of evaluating SO_2 emissions in the Warren nonattainment area is not valid because there are only two SO_2 ambient air quality monitors within the four municipalities of the Warren Area. The commenter asserts that the ambient air quality data is not representative of the entire nonattainment area or the most populated municipality, and that additional monitor sites must be established in the populated areas. The commenter states that the Warren Overlook monitor is 2.9 miles from the United Refinery and that neither that monitor nor the Warren East monitor are in the direction of the prevailing wind, 229.6 degrees. Therefore, because of the lack of monitoring sites in all municipalities, the ''dubious'' siting of existing monitors in locations not in the path of prevailing winds, and the vast area of Warren County not proximate to monitors, the claim by EPA that the attainment plan evaluates SO_2 emissions for the area is unprovable. The commenter asserts that the plan is not approvable and fails to meet the requirements of 40 CFR 51.112(a) which requires plans to demonstrate that the measures are adequate to provide for timely attainment and maintenance of NAAQS. The commenter asserts additional ''emissions monitors'' must be established in populated areas near the refinery where people are most

likely exposed to SO_2. The commenter urged EPA to reevaluate the number and location of monitors to ensure accurate and timely data regarding SO_2 exposure.

Response 6: EPA disagrees with the commenter. EPA used ambient monitoring data to determine that the Warren Area was not attaining the 2010 SO_2 NAAQS in 2013 (78 FR 47191), and consistent with EPA's 2014 SO_2 Nonattainment Guidance and EPA's Modeling Guidance, PADEP provided modeling to determine that PADEP's attainment plan will bring the entire nonattainment area into attainment with the NAAQS. The 2010 primary SO_2 NAAQS was established to be protective of public health and the Warren Area attainment plan modeling shows that the SO_2 NAAQS will be met *throughout* the nonattainment Area. EPA evaluated PADEP's modeling and emissions data and determined that it has met all applicable requirements as described in EPA's NPRM.

PADEP operates more monitors in the area (and throughout the State) than are required by the Population Weighted Emissions Index (PWEI) requirement described in appendix D to 40 CFR part 58. PADEP established the Warren Overlook monitor in November 1996 and the Warren East monitor was established in January 2012. The monitors have been sited correctly and in accordance with the requirements of 40 CFR part 58, appendix E. Thus, EPA disagrees with the commenter that EPA must reevaluate the number and location of SO_2 monitors in the area and disagrees with the commenter that the siting of ambient monitors in the Area impacts our ability to approve the attainment plan for this area. As Pennsylvania has the legally required monitoring for the Area per 40 CFR part 58 and EPA finds the attainment plan otherwise meets requirements in the CAA, EPA is approving the attainment plan for the Warren Area.

In addition, EPA approved Pennsylvania's November 17, 2017 Annual Ambient Air Monitoring Network Plan on January 11, 2018 because it meets the requirements of 40 CFR part 58.10, and has not in this SIP approval action re-opened that prior monitoring plan approval action.[9]

Comment 7: The commenter asserts that the United Refining COA is designed only to ensure a violation at the monitor is not recorded and that it is not protective of the health of citizens in the area since the monitors are not properly placed. The commenter asserts that the placement of monitors is such that they will have minimal likelihood of detecting an exceedance. The commenter states that as currently constructed, the Attainment Plan ''lacks sufficient measures to expeditiously identify the source of any violation of the SO_2 NAAQS, and, more importantly, lacks essential safeguards to trigger protection of public health and welfare across the entire nonattainment area.''

Response 7: EPA disagrees with the commenter. The 2010 primary SO_2 NAAQS was established to be protective of public health and the Warren Area attainment plan modeling shows that the SO_2 NAAQS will be met throughout the nonattainment area.

The COA between PADEP and United Refining was signed on September 29, 2017 and is included in the Docket in Appendix B of Pennsylvania's submittal. The emissions limitations agreed to in the COA were modeled by Pennsylvania to show that at the worst case (maximum allowable emissions) scenario, emissions from United Refining will not be causing nonattainment of the primary SO_2 NAAQS anywhere in the Warren Area. In addition, as discussed in Response 6, PADEP meets the requirements for ambient monitoring as established in 40 CFR part 58, appendices D and E. Thus, EPA is approving Pennsylvania's attainment plan for the Warren Area.

Comment 8: Two commenters addressed the NNSR Program in Pennsylvania, as it relates to the addition of sour tip stripper units that were installed at the United Refining plant in March 2018. The first commenter asserts that while Pennsylvania concluded the modification of the sour tip stripper unit to the Facility did not trigger NNSR, the restart of the refinery after the modification, should have prompted PADEP regulators ''to conduct the NNSR.'' The commenter asked how EPA could conclude Pennsylvania's SIP meets requirements of CAA 172(c)(5) for the Area and states that EPA should pause approval of the attainment plan to conduct an audit of PADEP compliance with NNSR regulations. The second commenter asks if the modified sour tip units were taken into account with regard to the proposed attainment plan and if United Refining is subject to the NNSR program for the Warren Area.

Response 8: EPA disagrees with the commenters, and notes that several of the points they raise are outside the scope of this attainment SIP approval action. Section 172(c)(5) of the CAA requires that an attainment plan require permits for the construction and operation of new or modified major stationary sources in a nonattainment area. Pennsylvania has a NNSR program for criteria pollutants in 25 Pennsylvania Code Chapter 127, Subchapter E, which was approved into the Pennsylvania SIP on December 9, 1997 (62 FR 64722). On May 14, 2012 (77 FR 28261), EPA approved a SIP revision pertaining to the pre-construction permitting requirements of Pennsylvania's NNSR program to update the regulations to meet EPA's 2002 NSR reform regulations. EPA then approved an update to Pennsylvania's NNSR regulations on July 13, 2012 (77 FR 41276). PADEP's currently SIP approved NNSR program meets all of the requirements of CAA sections 175(c)(5) and 173 and 40 CFR 51.165 for SO_2 sources undergoing construction or major modification in the Warren Area. EPA does not, as a general matter, evaluate individual permitting actions in the context of a SIP revision. Nor do we ''audit'' a permitting authority's implementation of already approved regulations in the course of determining whether an individual SIP revision request meets all applicable requirements of the CAA. If a source improperly avoids NNSR permitting, the source is potentially subject to enforcement action. As noted by the commenter, PADEP evaluated the installation of the sour tips stripper unit and determined that the project did not trigger major NNSR. The commenter has provided no evidence to conclude that PADEP did so incorrectly. Regardless, if the commenter took issue with PADEP's determination on the sour tips stripper installation, the time to raise such concerns was during the permitting process, not here, as individual permitting actions are not germane to this SIP action which only evaluates whether the SIP includes the program as required by CAA section 172(c)(5).

In addition, the Warren Attainment Plan was submitted to EPA on September 29, 2017, which was prior to the installation of the sour tip units, and as such that installation was not included in the attainment plan. However, the project was considered under Pennsylvania's NNSR regulations; the project was evaluated and determined by PADEP to not trigger major NNSR. Finally, EPA disagrees that the attainment plan submitted to meet CAA section 172 needs to address any modifications at sources in a nonattainment area that occur after the plan is submitted. CAA section 172(c)(5) specifically requires attainment plans to include NNSR permit programs which will ensure future construction or

[9] For informational purposes, EPA's approval letter for the Pennsylvania November 17, 2017 Annual Ambient Air Monitoring Network Plan is included in the docket for this rulemaking and available at *www.regulations.gov.*

modifications at sources (such as the sour tip units at United Refining) do not interfere with an area attaining the NAAQS.

Comment 9: Six commenters provided video and photos of a fire at the United Refining facility in spring 2018, with identical comments. The commenters inquired whether EPA or PADEP have been contacted about the fires at the refinery, or if EPA or PADEP have been actively involved in the restart of the refinery. The commenters inquired about the types of pollutants that are being released during the refinery fire, which they assert have been ongoing for three weeks.

Response 9: EPA notes that none of the comments and photos sent by commenters about fires at United Refining are related to the attainment plan EPA has proposed to approve for the Warren Area or to the reasoning EPA provided in the NPRM for our approval of the plan as addressing requirements in CAA sections 110, 172, and 192. The fires do not affect whether the limits that Pennsylvania has adopted suffice to assure attainment or whether the plan more generally satisfies applicable requirements. Thus, these comments are not germane to our proposed rulemaking, and no response is necessary. However, EPA reviewed PADEP's preliminary (yet to be quality assured or certified) hourly SO_2 data collected at the Warren Overlook and Warren East monitors for the month of April, when the fires and related flaring were reported to EPA.[10] The ambient air quality monitor data reviewed by EPA during this period do not show monitored SO_2 concentrations approaching the NAAQS of 75 ppb. The highest hourly concentration at the monitors during April 2018 was 22 ppb on April 23, 2018, which is well below the 2010 SO_2 NAAQS. The commenters have not provided any other information such as modeling of actual emissions during the fire to suggest that there are NAAQS exceedances that the monitors may have not detected.

III. Final Action

EPA is approving Pennsylvania's SIP revision submittal for the Warren Area, as submitted through PADEP to EPA on September 29, 2017 for the purpose of demonstrating attainment of the 2010 1-hour SO_2 NAAQS. EPA has determined that Pennsylvania's SO_2 attainment plan for the 2010 1-hour SO_2 NAAQS for the Warren Area meets the applicable requirements of the CAA in sections 110 and 172 and comports with EPA's recommendations discussed in the 2014 SO_2 Nonattainment Guidance. Specifically, EPA is approving the base year emissions inventory, a modeling demonstration of SO_2 attainment, an analysis of RACM/RACT, a RFP plan, and contingency measures for the Warren Area, and concludes that the Pennsylvania SIP has met requirements for NNSR for the 2010 1-hour SO_2 NAAQS. Additionally, EPA is approving into the Pennsylvania SIP specific SO_2 emission limits, compliance parameters and contingency measures established for United Refining, the SO_2 source impacting the Warren Area. Furthermore, approval of this SIP submittal removes EPA's duty to promulgate and implement a FIP under CAA section 110(c) for the Warren Area.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the portions of the COA entered between Pennsylvania and United Refining Company on September 29, 2017 that are not redacted. This includes emission limits and associated compliance parameters, record-keeping and reporting, and contingency measures. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov/* or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[11]

V. 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 Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a

[10] PADEP's preliminary ambient air monitoring data is accessible in real-time at this site: *http://www.ahs.dep.pa.gov/aq_apps/aadata/Default.aspx.* EPA accessed the data on the morning of Friday, May 18, 2018 and has provided this data in a memo to the file in the docket for this rulemaking.

[11] 62 FR 27968 (May 22, 1997).

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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 December 11, 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 of approving a SIP revision, submitted by the Commonwealth of Pennsylvania through the Pennsylvania PADEP, to EPA on September 29, 2017, for attainment of the 2010 1-hour SO_2 primary NAAQS in the Warren, Pennsylvania SO_2 nonattainment area may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 28, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. Amend § 52.2020 by:

■ a. In paragraph (d)(3), adding an entry for ''United Refining Company'' at the end of the table; and

■ b. In paragraph (e)(1), adding an entry for ''Attainment Plan for the Warren, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard'' at the end of the table.

The additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(3) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ 52.2063 citation
*	*	*	*	*	*
United Refining Company	None	Warren	9/29/17	10/12/18, [Insert **Federal Register** citation].	Sulfur dioxide emission limits and related parameters in unredacted portions of the Consent Order and Agreement.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *		* *	*
Attainment Plan for the Warren, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard.	Conewango Township, Glade Township, Pleasant Township, and the City of Warren in Warren County.	.....	10/12/18, [Insert **Federal Register** citation].	Includes base year emissions inventory.

* * * * *

[FR Doc. 2018–22174 Filed 10–11–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA–HQ–OW–2018–0558; FRL–9985–19–OW]

Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the Agency's approval of alternative testing methods for use in measuring the levels of contaminants in drinking water and determining compliance with national primary drinking water regulations. The Safe Drinking Water Act authorizes the EPA to approve the use of alternative testing methods through publication in the **Federal Register**. The EPA is using this authority to make 100 additional methods available for analyzing drinking water samples. This expedited approach provides public water systems, laboratories, and primacy

agencies with more timely access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection.

DATES: This action is effective October 12, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2018–0558. All documents in the docket are listed on the *https://www.regulations.gov/* Website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Glynda Smith, Technical Support Center, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: (513) 569–7652; email address: *smith.glynda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Public water systems are the regulated entities required to measure contaminants in drinking water samples. The EPA Regions as well as states and tribal governments with authority to administer the regulatory program for public water systems under the Safe Drinking Water Act (SDWA) may also measure contaminants in water samples. When the EPA sets a monitoring requirement in its national primary drinking water regulations for a given contaminant, the Agency also establishes (in the regulations) standardized test procedures for analysis of the contaminant. This action makes alternative testing methods available for particular drinking water contaminants beyond the testing methods currently established in the regulations. The EPA is providing public water systems, required to test water samples, with a choice of using either a test procedure already established in the existing regulations or an alternative testing method that has been approved in this action or in prior expedited approval actions. Categories and entities that may ultimately be interested in this expedited methods approval action include:

Category	Examples of potentially regulated entities	NAICS [1]
State, local, & tribal governments	State, local, and tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; state, local, and tribal governments that directly operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides the EPA's guide for readers regarding entities likely to be interested in this action. Other types of entities not listed in the table may also have some interest. To determine whether this action may concern your facility, you should carefully examine the applicability language in the *Code of Federal Regulations* (CFR) at 40 CFR 141.2 (definition of a public water system). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Abbreviations and Acronyms Used in This Action

APHA: American Public Health Association
ATP: Alternate Test Procedure
CBI: Confidential Business Information
CFR: *Code of Federal Regulations*
EPA: U.S. Environmental Protection Agency
NAICS: North American Industry Classification System
QC: Quality Control
QCS: Quality Control Sample
SDWA: The Safe Drinking Water Act
SM: Standard Method
VCSB: Voluntary Consensus Standard Bodies

II. Background

A. What is the purpose of this action?

In this action, the EPA is approving 100 analytical methods for determining contaminant concentrations in drinking water samples collected under the SDWA. Regulated entities required to sample and monitor may use either the testing methods already established in existing national primary drinking water regulations or the alternative testing methods being approved under this action or in prior expedited approval actions. The new methods are listed along with other methods similarly approved through previous expedited actions in 40 CFR part 141, Appendix A to subpart C and on the EPA's drinking water methods website at *https://www.epa.gov/dwanalyticalmethods.*

B. What is the basis for this action?

When the EPA determines that an alternative analytical method is ''equally effective'' (*i.e.,* as effective as a method that has already been promulgated in the regulations), the SDWA allows the EPA to approve the use of the alternative testing method through publication in the **Federal Register** (see section 1401(1) of the SDWA). The EPA is using this approval authority to make 100 additional methods available for determining contaminant concentrations in drinking water samples collected under the SDWA. The EPA has determined that, for each contaminant or group of contaminants listed in Section III of this action, the additional testing methods being approved are as effective as one or more of the testing methods already approved in the regulations for those contaminants. Section 1401(1) of the SDWA states that the newly approved methods ''shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.'' Accordingly, this action makes these additional 100 analytical methods legally available as options for meeting the EPA's monitoring requirements.

This action does not add regulatory language; however, for informational purposes, the action updates an appendix to the regulations at 40 CFR part 141, which lists all methods

approved under section 1401(1) of the SDWA. Accordingly, while this action is not a rule, it is updating CFR text and therefore is being published under the ''Final Rules'' section of the **Federal Register**.

III. Summary of Approvals

The EPA is approving 100 methods that are equally effective relative to methods previously promulgated in the regulations. This action adds these 100 methods to Appendix A to subpart C of 40 CFR part 141.

A. Methods Developed by the EPA

1. EPA Method 900.0, Revision 1.0, Determination of Gross Alpha and Gross Beta in Drinking Water (USEPA 2018). EPA Method 900.0 (USEPA 1980) was promulgated in the drinking water regulations at 40 CFR 141.25(a) as a screening method for alpha- and beta-emitting radionuclides. EPA Method 900.0, Revision 1.0 was developed in response to comments from radiochemistry stakeholders indicating that the older, approved method does not address newer instrumental capabilities such as simultaneous alpha/beta counting and the concomitant need to properly address crosstalk. Moreover, stakeholders requested that a method revision provide more in-depth calibration details and quality control criteria to assure a more robust procedure capable of yielding improved consistency in generating and evaluating analytical results. EPA Method 900.0, Revision 1.0 addresses those concerns and also corrects specific disparities between requirements in the promulgated Method 900.0 and the criteria defined in the regulations. For example, the approved Method 900.0 defines americium-241 as the gross alpha calibrant. However, americium-241 is not approved in the regulations at 40 CFR 141.25(a); footnote 11 to the table at 40 CFR 141.25(a) states that only natural uranium and thorium-230 are approved calibration standards for gross alpha evaporative methods (*i.e.,* Method 900.0). Americium-241 is only approved as an alpha calibrant for co-precipitation methods.

The revised method also addresses the important issue of the time interval involved between sample preparation and counting. Timing events can have a significant impact on gross alpha results. The gross alpha maximum contaminant level specified at 40 CFR 141.66(c) is 15 pCi/L and excludes radon and uranium activity. The promulgated method specifies a minimum 72-hour hold time after preparation before counting the samples. Such a delay can allow radon ingrowth along with its alpha-emitting progeny. The revised method eliminates the hold time in order to more accurately meet the intent of the gross alpha maximum contaminant level specification.

The EPA has determined that EPA Method 900.0, Revision 1.0 is equally as effective for determining gross alpha and gross beta radioactivity as the promulgated method. The basis for this determination is discussed in greater detail in Smith 2018a. Therefore, the EPA is approving EPA Method 900.0, Revision 1.0 for the routine determination of gross alpha and gross beta radioactivity in drinking water. EPA Method 900.0 Rev 1.0 is available at the National Service Center for Environmental Publications.

B. Methods Developed by Voluntary Consensus Standard Bodies (VCSB)

1. Standard Methods for the Examination of Water and Wastewater (Standard Methods). The 23rd edition of *Standard Methods for the Examination of Water and Wastewater* (APHA 2017) was published in July 2017. The EPA compared 89 methods in the 23rd edition to earlier versions of those methods that are promulgated in 40 CFR parts 141 and 143. Changes between the promulgated version and the version of each method published in the 23rd edition are summarized in Smith and Wendelken (2018) and Best (2018). The revisions primarily involve editorial changes (*e.g.,* correction of errors, procedural clarifications, and reorganization of text). Errors in the nitrate methods (4500–NO_3^- D, E, and F) have been addressed in an appropriate errata sheet prepared for the 23rd edition (APHL 2018). The methods in the following table are the same as the earlier approved versions with respect to the sample handling protocols, analytical procedures, and method performance data. For these reasons, the EPA has concluded that the versions in the 23rd edition are equally effective relative to the promulgated versions in the regulations. Therefore, the EPA is approving the use of 89 Standard Methods in the 23rd edition for the contaminants and their respective regulations listed in the following table:

Standard methods, 23rd edition (APHA 2017)	Approved method	Contaminant	Regulation citations
2120 B	2120 B–01, online version (APHA 2001a).	Color	40 CFR 143.4(b).
2130 B	2130 B–01, online version (APHA 2001b).	Turbidity	40 CFR 141.74(a)(1).
2150 B	2150 B–97, online version (APHA 1997a).	Odor	40 CFR 143.4(b).
2320 B	2320 B–97, online version (APHA 1997b).	Alkalinity	40 CFR 141.23(k)(1).
2510 B	2510 B–97, online version (APHA 1997c).	Conductivity	40 CFR 141.23(k)(1).
2540 C	2540 C–97, online version (APHA 1997d).	Total Dissolved Solids	40 CFR 143.4(b).
2550	2550–00, online version (APHA 2000a)	Temperature	40 CFR 141.23(k)(1).
3111 B	3111 B–99, online version (APHA 1999a).	Calcium, copper, magnesium, nickel, sodium, iron, manganese, silver, zinc.	40 CFR 141.23(k)(1); 40 CFR 143.4(b).
3111 D	3111 D–99, online version (APHA 1999a).	Barium, aluminum	40 CFR 141.23(k)(1); 40 CFR 143.4(b).
3112 B	3112 B–99, online version (APHA 1999b).	Mercury	40 CFR 141.23(k)(1).

Standard methods, 23rd edition (APHA 2017)	Approved method	Contaminant	Regulation citations
3113 B	3113 B, 19th Edition (APHA 1995)	Antimony, arsenic, barium, beryllium, cadmium, chromium, copper, lead, nickel, selenium, aluminum, iron, manganese, silver.	40 CFR 141.23(k)(1); 40 CFR 143.4(b).
3114 B	3114 B–97, online version (APHA 1997e).	Arsenic, selenium	40 CFR 141.23(k)(1).
3120 B	3120 B–99, online version (APHA 1999c).	Barium, beryllium, calcium, chromium, copper, magnesium, nickel, silica, aluminum, iron, manganese, silver, zinc.	40 CFR 141.23(k)(1); 40 CFR 143.4(b).
3500–Ca B	3500–Ca B–97, online version (APHA 1997f).	Calcium	40 CFR 141.23(k)(1).
3500–Mg B	3500–Mg B–97, online version (APHA 1997g).	Magnesium	40 CFR 141.23(k)(1).
4110 B	4110 B–00, online version (APHA 2000b).	Fluoride, nitrate, nitrite, ortho-phosphate, chloride, sulfate.	40 CFR 141.23(k)(1); 40 CFR 143.4(b).
4500–Cl D, F, G, H	4500–Cl D, F, G, H–00, online versions (APHA 2000c).	Free chlorine	40 CFR 141.74(a)(2); 40 CFR 141.131(c)(1).
4500–Cl D, E, F, G, I.	4500–Cl D, E, F, G, I–00, online versions (APHA 2000c).	Total chlorine	40 CFR 141.74(a)(2); 40 CFR 141.131(c)(1).
4500–Cl D, F, G	4500–Cl D, F, G–00, online versions (APHA 2000c).	Combined chlorine	40 CFR 141.131(c)(1).
4500–Cl^- B, D	4500–Cl^- B, D–97, online versions (APHA 1997h).	Chloride	40 CFR 143.4(b).
4500–ClO_2 C	4500–ClO_2 C–00, online version (APHA 2000d).	Chlorine dioxide	40 CFR 141.74(a)(2).
4500–ClO_2 E	4500–ClO_2 E–00, online version (APHA 2000d).	Chlorine dioxide	40 CFR 141.74(a)(2); 40 CFR 141.131(c)(1).
4500–ClO_2 E	4500–ClO_2 E–00, online version (APHA 2000d).	Chlorite	40 CFR 141.131(b)(1).
4500–CN^- C, E, F, G.	4500–CN^-, 20th Edition (APHA 1998)	Cyanide	40 CFR 141.23(k)(1).
4500–F^- B, C, D, E	4500–F^- B, C, D, E–97, online versions (APHA 1997i).	Fluoride	40 CFR 141.23(k)(1).
4500–H+B	4500–H+ B–00, online version (APHA 2000e).	pH	40 CFR 141.23(k)(1).
4500–NO_3^- D	4500–NO_3^- D–00, online version (APHA 2000f).	Nitrate	40 CFR 141.23(k)(1).
4500–NO_3^- E, F	4500–NO_3^- E, F–00, online versions (APHA 2000f).	Nitrate, nitrite	40 CFR 141.23(k)(1).
4500–NO_2^- B	4500–NO_2^- B–00, online version (APHA 2000g).	Nitrite	40 CFR 141.23(k)(1).
4500–O_3 B	4500–O_3 B–97, online version (APHA 1997j).	Ozone	40 CFR 141.74(a)(2).
4500–P E, F	4500–P E, F, 19th Edition, (APHA 1995).	Ortho-phosphate	40 CFR 141.23(k)(1).
4500-SiO_2 C, D, E	4500–SiO_2 C, D, E–97, online versions (APHA 1997k).	Silica	40 CFR 141.23(k)(1).
4500–SO_4^{2-} C, D, E, F.	4500–SO_4^{2-} C, D, E, F, 19th Edition (APHA 1995).	Sulfate	40 CFR 143.4(b).
5310 B, C	5310 B, C–00, online versions (APHA 2000h).	Dissolved and Total Organic Carbon	40 CFR 141.131(d).
5540 C	5540 C–00, online version (APHA 2000i).	Foaming agents	40 CFR 143.4(b).
5910 B	5910 B–00, online version (APHA 2000j).	UV Absorption at 254 nm	40 CFR 141.131(d).
6251 B	6251 B–94, online version (APHA 1994).	HAA5	40 CFR 141.131(b)(1).
6610 B	EPA Method 531.2, Rev. 1.0 (USEPA 2001).	Carbofuran, oxamyl	40 CFR 141.24(e)(1).
6640 B	EPA Method 515.4, Rev. 1.0 (USEPA 2000).	2,4-D; 2,4,5-TP; Dalapon; Dinoseb; Pentachlorophenol; Picloram.	40 CFR 141.24(e)(1).
6651 B	6651 B, 20th Edition, (APHA 1998)	Glyphosate	40 CFR 141.24(e)(1).
7110 B	7110 B–00, online version (APHA 2000k).	Gross alpha and gross beta	40 CFR 141.25(a).
7110 C	7110 C–00, online version (APHA 2000k).	Gross alpha	40 CFR 141.25(a).
7120	7120–97, online version (APHA 1997l)	Gamma emitters (includes radioactive cesium and iodine).	40 CFR 141.25(a).
7500–Cs B	7500–Cs B–00, online version (APHA 2000l).	Radioactive Cesium and Gamma emitters.	40 CFR 141.25(a).

Standard methods, 23rd edition (APHA 2017)	Approved method	Contaminant	Regulation citations
7500–^{3}H B	7500–^{3}H B–00, online version (APHA 2000m).	Tritium	40 CFR 141.25(a).
7500–I B	7500–I B–00, online version (APHA 2000n).	Radioactive Iodine and Gamma emitters.	40 CFR 141.25(a).
7500–I C, D	7500–I C, D–00, online versions (APHA 2000n).	Radioactive Iodine	40 CFR 141.25(a).
7500–Ra B, C	7500–Ra B, C–01, online versions (APHA 2001c).	Radium-226	40 CFR 141.25(a).
7500–Ra D	7500–Ra D–01, online version (APHA 2001c).	Radium-228	40 CFR 141.25(a).
7500–Ra E	GA Method (2004)	Radium-226 and Radium-228	40 CFR 141.25(a).
7500–Sr B	7500–Sr B–01, online version (APHA 2001d).	Strontium-89 and Strontium-90	40 CFR 141.25(a).
7500–U B, C	7500–U B, C–00, online versions (APHA 2000o).	Uranium	40 CFR 141.25(a).
9221 A, C	9221 A, C, 20th Edition, (APHA 1998)	Total coliforms	40 CFR 141.74(a)(1).
9221 B	9221 B, 20th Edition, (APHA 1998)	Total coliforms	40 CFR 141.74(a)(1); 40 CFR 141.852(a)(5) [B.1, B.2, B.3, B.4].
9221 D	9221 D, 20th Edition, (APHA 1998)	Total coliforms	40 CFR 141.852(a)(5) [D.1, D.2, D.3].
9221 E	9221 E, 20th Edition, (APHA 1998)	Fecal coliforms	40 CFR 141.74(a)(1).
9221 F	9221 F, 20th Edition, (APHA 1998)	*E. coli*	40 CFR 141.402(c)(2); 40 CFR 141.852(a)(5) [F.1].
9222 A	9222 A 20th Edition, (APHA 1998)	Total coliforms	40 CFR 141.74(a)(1).
9222 B, C	9222 B, C, 20th Edition, (APHA 1998)	Total coliforms	40 CFR 141.74(a)(1); 40 CFR 141.852(a)(5).
9222 D	9222 D, 20th Edition, (APHA 1998)	Fecal coliforms	40 CFR 141.74(a)(1).
9222 H	9222 G, 20th Edition, (APHA 1998)	*E. coli*	40 CFR 141.852(a)(5).
9222 I	9222 G, 20th Edition, (APHA 1998)	*E. coli*	40 CFR 141.402(c)(2); 40 CFR 141.852(a)(5).
9222 J	m-ColiBlue24 Test (Hach Company 1999).	Total coliforms	40 CFR 141.852(a)(5).
9222 J	m-ColiBlue24 Test (Hach Company 1999).	*E. coli*	40 CFR 141.402(c)(2); 40 CFR 141.852(a)(5).
9223 B	9223 B, 20th Edition (APHA 1998)	Total coliforms	40 CFR 141.74(a)(1); 40 CFR 141.852(a)(5).
9223 B	9223 B, 20th Edition (APHA 1998)	*E. coli*	40 CFR 141.402(c)(2); 40 CFR 141.852(a)(5).
9215 B	9215 B, 20th Edition (APHA 1998)	Heterotrophic bacteria	40 CFR 141.74(a)(1).
9230 C	9230 C, 20th Edition (APHA 1998)	Enterococci	40 CFR 141.402(c)(2).
	(Budnick 1996)	Enterococci	40 CFR 141.402(c)(2).

Two additional methods from earlier editions of *Standard Methods for the Examination of Water and Wastewater* are being approved under this action: Standard Method 4500-CN^{-} C in the 21st edition (APHA 2005) and Standard Method 4500-CN^{-} C in the 22nd edition (APHA 2012). Also, the identical online version, Standard Method 4500-CN^{-} C–99 (APHA 1999d) is being approved. The originally approved method, Standard Method 4500-CN^{-} C in the 20th edition (APHA 1998) specified addition of magnesium chloride in the distillation. Beginning with the 1999 online method, and in the subsequent 21st and 22nd editions, Standard Methods made the addition of magnesium chloride optional, without providing supporting data to verify that distillation efficiency was not adversely affected when magnesium chloride was not used. As a result, the EPA did not approve Standard Method 4500-CN^{-} C in the 1999 online method and subsequent editions of *Standard Methods for the Examination of Water and Wastewater.* The distillation performed in Standard Method 4500-CN^{-} C is required prior to conducting the analyses for all of the other approved cyanide methods. As a result, laboratories conducting cyanide analyses for drinking water compliance have had to rely on the approved version in the 20th edition. That may result in confusion because laboratories that also conduct cyanide analyses for wastewaters use the more recently published Standard Methods. In order to address this issue, the EPA is approving Standard Method 4500-CN^{-} C in the editions and online version as stated above, but with the requirement to add magnesium chloride in the distillation. The cyanide entry in Appendix A to subpart C of part 141 has been revised to clarify this requirement.

The 23rd edition can be obtained from the American Public Health Association (APHA), 800 I Street NW, Washington, DC 20001–3710. Approved online versions are available at *http://www.standardmethods.org.*

2. ASTM International. The EPA compared the most recent versions of five ASTM International methods to the earlier versions of those methods that are promulgated in 40 CFR part 141. Most of the changes in the updated versions include additional quality control specifications.

Changes between the earlier approved version and the most recent version of each method are described more fully in Smith (2018b). Besides additional quality control, the revisions involve (primarily) editorial changes (*e.g.,* updated references, definitions, terminology, procedural clarifications, and reorganization of text). The revised methods are the same as the promulgated versions with respect to sample collection and handling protocols, sample preparation, analytical methodology, and method performance data; thus, the EPA finds

that they are equally effective relative to the promulgated methods.

The EPA is thus approving the use of the following ASTM International methods for the contaminants and their respective regulations listed in the following table:

ASTM revised version	Approved method	Contaminant	Regulation citations
D 516–16 (ASTM 2016a)	D 516–02 (ASTM 2002a)	Sulfate	40 CFR 143.4(b).
D 859–16 (ASTM 2016b)	D 859–00 (ASTM 2000)	Silica	40 CFR 141.23(k)(1).
D 1067–16 B (ASTM 2016c)	D 1067–02 B (ASTM 2002b)	Alkalinity	40 CFR 141.23(k)(1).
D 1179–16 B (ASTM 2016d)	D 1179–99 B (ASTM 1999)	Fluoride	40 CFR 141.23(k)(1).
D 5673–16 (ASTM 2016e)	D 5673–03 (ASTM 2003)	Uranium	40 CFR 141.25(a).

The ASTM methods are available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959 or *http://www.astm.org.*

C. Methods Developed by Vendors

1. Hach Method 10258, Rev. 2.0. *Determination of Turbidity by 360° Nephelometry,* March 2018 (Hach Company 2018a). In July 2016, Hach Method 10258, Rev. 1.0 (Hach Company 2016) was approved in an expedited methods approval action (USEPA 2016) as an equally effective alternate method to the Hach FilterTrak Method 10133 (Hach Company 2000), which is approved at 40 CFR 141.74(a)(1), for determination of turbidity in drinking water.

Turbidimeter calibration and calibration verification have remained unchanged since promulgation of turbidity methods in 40 CFR 141.74(a)(1). Calibration and quarterly calibration validation through analysis of a Quality Control Sample (QCS) require preparation of a primary calibration standard. Sealed standards are considered as secondary calibration standards and used only as calibration verification checks between the quarterly calibration validation QCS evaluations.

Public water systems utilize multiple turbidimeters and many of the units are in line with process streams. The time and cost associated with preparing quarterly primary calibration standards can be significant. In 2016, Hach Company began to manufacture glass flame-sealed vials prefilled with StablCal™, which is an approved primary calibration standard. From December 2016 through March 2018, Hach conducted a long-term stability study with a set of sealed vials containing StablCal to determine whether the integrity of the vials and stability of the primary calibration standard could be maintained. After 515 days (1.4 years), the sealed StablCal primary calibration standards exhibited a %bias of <0.1% and relative standard deviation of 0.7% compared to the initial certified turbidity values, indicating that no degradation of the StablCal primary calibration standard occurred. The results of this study are discussed further in the validation report (Hach Company 2018b).

Hach Method 10258, Rev. 2.0 is an updated version of the promulgated Hach Method 10258, Rev. 1.0. The updated method provides for use of glass flame-sealed vials prefilled with StablCal as primary calibration standards, secondary calibration verification standards, and QCS checks. The EPA has determined that Hach Method 10258, Rev. 2.0 is equally as effective as the promulgated Hach Method 10258, Rev. 1.0. The basis for this determination is discussed in Adams and Smith (2018). Therefore, the EPA is approving Hach Method 10258, Rev. 2.0 for the determination of turbidity in drinking water. Hach Method 10258, Rev. 2.0 can be obtained from Hach Company, 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539.

2. Hach Method 8195, Rev. 3.0. *Determination of Turbidity by Nephelometry,* March 2018 (Hach Company 2018c). On April 20, 1998, the EPA Office of Water issued a letter (USEPA 1998) addressing the use of Hach Method 8195 (Hach Company 1997) as an alternate method to EPA Method 180.1 (USEPA 1993) for drinking water compliance monitoring of turbidity. Hach Method 8195 established the same requirements for primary calibration standards, secondary calibration verification standards, and QCS checks as described for Hach Method 10258, Rev. 1.0 in Section III.C.1 of this action. Hach Method 8195, Rev. 3.0 is an updated version of the 1997 Hach Method 8195. The updated method provides for use of glass flame-sealed vials prefilled with StablCal as primary calibration standards, secondary calibration verification standards, and QCS checks. The EPA has determined that Hach Method 8195, Rev. 3.0 is equally as effective as the 1997 Hach Method 8195 and EPA Method 180.1. The basis for this determination is discussed in Adams and Smith (2018). Therefore, the EPA is approving Hach Method 8195, Rev. 3.0 for the determination of turbidity in drinking water. Hach Method 8195, Rev. 3.0 can be obtained from Hach Company, 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539.

IV. Statutory and Executive Order Reviews

As noted in Section II of this action, under the terms of the SDWA, section 1401(1), this streamlined method approval action is not a rule. Accordingly, the Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3). Similarly, this action is not subject to the Regulatory Flexibility Act because it is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute. In addition, because this approval action is not a rule, but simply makes alternative testing methods available as options for monitoring under the SDWA, the EPA has concluded that other statutes and executive orders generally applicable to rulemaking do not apply to this approval action.

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List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: September 28, 2018.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 141 as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

■ 2. Amend Appendix A to subpart C of part 141 as follows:

■ a. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.23(k)(1).''

■ b. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.24(e)(1).''

■ c. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.25(a).''

■ d. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.74(a)(1).''

■ e. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.74(a)(2).''

■ f. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.131(b)(1).''

■ g. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.131(c)(1).''

■ h. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR PARAMETERS LISTED AT 40 CFR 141.131(d).''

■ i. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.402(c)(2).''

■ j. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.852(a)(5).''

■ k. Revise the table entitled ''ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 143.4(b).''

■ l. Revise footnotes 9, 14, 16, 18, 22–23, 25–26, 29, 31, 34–39, and 48.

■ m. Add footnotes 49–52.

The revisions and additions read as follows:

Appendix A to Subpart C of Part 141—Alternative Testing Methods Approved for Analyses Under the Safe Drinking Water Act

* * * * *

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.23(k)(1)

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM Online [3]	ASTM [4]	Other
Alkalinity	Titrimetric		2320 B	2320 B	2320 B		D1067–06 B, 11 B, 16 B	
Antimony	Hydride—Atomic Absorption						D 3697–07, –12	
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10		
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Arsenic	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10.	D 2972–08 C, –15 C	
	Hydride Atomic Absorption		3114 B	3114 B	3114 B	3114 B–09	D 2972–08 B, –15 B.	
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Barium	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Atomic Absorption; Direct		3111 D	3111 D	3111 D			

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.23(k)(1)—Continued

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM Online [3]	ASTM [4]	Other
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10		
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Beryllium	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10.	D 3645–08 B, –15 B	
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Cadmium	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10		
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Calcium	EDTA titrimetric		3500–Ca B	3500–Ca B	3500–Ca B		D 511–09, –14 A	
	Atomic Absorption; Direct Aspiration		3111 B	3111 B	3111 B		D 511–09, –14 B	
	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
	Ion Chromatography						D 6919–09	
Chromium	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10		
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Copper	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10.	D 1688–07, –12 C	
	Atomic Absorption; Direct Aspiration		3111 B	3111 B	3111 B		D 1688–07, –12 A	
	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
	Colorimetry							Hach Method 8026; [35] Hach Method 10272.[36]
Conductivity	Conductance		2510 B	2510 B	2510 B		D 1125–14 A	
Cyanide	Manual Distillation with $MgCl_2$ followed by:.		4500–CN⁻ C	4500–CN⁻ C	4500–CN⁻ C	4500–CN⁻ C–99.	D 2036–06 A	
	Spectrophotometric, Amenable		4500–CN⁻ G.	4500–CN⁻ G.	4500–CN⁻ G.		D 2036–06 B	
	Spectrophotometric Manual		4500–CN⁻ E	4500–CN⁻ E	4500–CN⁻ E		D2036–06 A	
	Selective Electrode		4500–CN⁻ F	4500–CN⁻ F	4500–CN⁻ F			
	Gas Chromatography/Mass Spectrometry Headspace.							ME355.01.[7]
Fluoride	Ion Chromatography		4110 B	4110 B	4110 B		D 4327–11	
	Manual Distillation; Colorimetric SPADNS.		4500–F⁻ B, D.	4500–F⁻ B, D.	4500–F⁻ B, D			
	Manual Electrode		4500–F⁻ C	4500–F⁻ C	4500–F⁻ C		D 1179–04, 10 B, 16 B	
	Automated Alizarin		4500–F⁻ E	4500–F⁻ E	4500–F⁻ E			
	Arsenite-Free Colorimetric SPADNS							Hach SPADNS 2 Method 10225.[22]
Lead	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10.	D 3559–08 D, 15 D	
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Magnesium	Atomic Absorption		3111 B	3111 B	3111 B		D 511–09, –14 B	
	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Complexation Titrimetric Methods		3500–Mg B	3500–Mg B	3500–Mg B		D 511–09, –14 A	
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
	Ion Chromatography						D 6919–09	
Mercury	Manual, Cold Vapor		3112 B	3112 B	3112 B	3112 B–09	D 3223–12	
Nickel	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
	Atomic Absorption; Direct		3111 B	3111 B	3111 B			
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10		
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Nitrate	Ion Chromatography		4110 B	4110 B	4110 B		D 4327–11	
	Automated Cadmium Reduction		4500–NO_3^- F.	4500–NO_3^- F.	4500–NO_3^- F			
	Manual Cadmium Reduction		4500–NO_3^- E.	4500–NO_3^- E.	4500–NO_3^- E			
	Ion Selective Electrode		4500–NO_3^- D.	4500–NO_3^- D.	4500–NO_3^- D			
	Reduction/Colorimetric							Systea Easy (1-Reagent); [8] NECi Nitrate-Reductase.[40]
	Colorimetric; Direct							Hach TNTplus™ 835/836 Method 10206.[23]
	Capillary Ion Electrophoresis						D 6508–15	
Nitrite	Ion Chromatography		4110 B	4110 B	4110 B		D 4327–11	

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.23(k)(1)—Continued

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM Online [3]	ASTM [4]	Other
	Automated Cadmium Reduction		4500–NO_3^- F.	4500–NO_3^- F.	4500–NO_3^- F			
	Manual Cadmium Reduction		4500–NO_3^- E.	4500–NO_3^- E.	4500–NO_3^- E			
	Spectrophotometric		4500–NO_2^- B.	4500–NO_2^- B.	4500–NO_2^- B			
	Reduction/Colorimetric							Systea Easy (1-Reagent); [8] NECi Nitrate-Reductase.[40]
	Capillary Ion Electrophoresis						D 6508–15	
Ortho-phosphate	Ion Chromatography		4110 B	4110 B	4110 B		D 4327–11	
	Colorimetric, ascorbic acid, single reagent.		4500–P E	4500–P E	4500–P E	4500–P E–99		
	Colorimetric, Automated, Ascorbic Acid		4500–P F	4500–P F	4500–P F	4500–P F–99		Thermo Fisher Discrete Analyzer.[41]
	Capillary Ion Electrophoresis						D 6508–15	
pH	Electrometric	150.3 [48]	4500–H+ B	4500–H+ B	4500–H+ B		D 1293–12	
Selenium	Hydride-Atomic Absorption		3114 B	3114 B	3114 B	3114 B–09	D 3859–08 A, –15 A	
	Atomic Absorption; Furnace		3113 B	3113 B	3113 B	3113 B–04, B–10.	D 3859–08 B, –15 B	
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
Silica	Colorimetric						D859–05, 10, 16	
	Molybdosilicate		4500–SiO_2 C	4500–SiO_2 C	4500–SiO_2 C			
	Heteropoly blue		4500–SiO_2 D	4500–SiO_2 D	4500–SiO_2 D			
	Automated for Molybdate-reactive Silica.		4500–SiO_2 E	4500–SiO_2 E	4500–SiO_2 E			
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
	Inductively Coupled Plasma		3120 B	3120 B	3120 B			
Sodium	Atomic Absorption; Direct Aspiration		3111 B	3111 B	3111 B			
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2]						
	Ion Chromatography						D 6919–09	
Temperature	Thermometric		2550	2550	2550	2550–10		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.24(e)(1)

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	SM online [3]
Benzene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Carbon tetrachloride	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Chlorobenzene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,2-Dichlorobenzene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,4-Dichlorobenzene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,2-Dichloroethane	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
cis-Dichloroethylene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
trans-Dichloroethylene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Dichloromethane	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,2-Dichloropropane	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Ethylbenzene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Styrene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,;[9] 524.4.[29]			
Tetrachloroethylene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,1,1-Trichloroethane	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Trichloroethylene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Toluene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,2,4-Trichlorobenzene.	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,1-Dichloroethylene	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
1,1,2-Trichlorethane	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Vinyl chloride	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
Xylenes (total)	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3,[9] 524.4.[29]			
2,4-D	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
2,4,5-TP (Silvex)	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
Alachlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Atrazine	Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS).	536.[25]			
	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3,[24]	523.[26]		
Benzo(a)pyrene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Carbofuran	High-performance liquid chromatography (HPLC) with post-column derivatization and fluorescence detection.		6610 B	6610 B	6610 B–04.
Chlordane	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Dalapon	Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS).	557.[14]			

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.24(e)(1)—Continued

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	SM online [3]
	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
Di(2-ethylhexyl)adipate.	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Di(2-ethylhexyl)phthalate.	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Dibromochloro-propane (DBCP).	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3.[9]			
Dinoseb	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
Endrin	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Ethyl dibromide (EDB)	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3.[9]			
Glyphosate	High-Performance Liquid Chromatography (HPLC) with Post-Column Derivatization and Fluorescence Detection.		6651 B	6651 B	6651 B–00, B–05.
Heptachlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Heptachlor Epoxide	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Hexachlorobenzene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Hexachlorocyclo-pentadiene.	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Lindane	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Methoxychlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Oxamyl	High-performance liquid chromatography (HPLC) with post-column derivatization and fluorescence detection.		6610 B	6610 B	6610 B–04.
PCBs (as Aroclors)	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Pentachlorophenol	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS)	525.3.[24]			
Picloram	Gas Chromatography/Electron Capture Detection (GC/ECD)		6640 B	6640 B	6640 B–01, B–06.
Simazine	Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS).	536.[25]			
	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]	523.[26]		
Toxaphene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3.[24]			
Total Trihalomethanes	Purge &Trap/Gas Chromatography/Mass Spectrometry	524.3.[9]	524.4.[29]		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.25(a)

Contaminant	Methodology	EPA method	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	ASTM [4]	SM Online [3]
Naturally Occurring:						
Gross alpha and beta	Evaporation	900.0, Rev. 1.0 [50]	7110 B	7110 B.		
	Liquid Scintillation				D 7283–17	7110 D–17.
Gross alpha	Coprecipitation		7110 C	7110 C.		
Radium 226	Radon emanation		7500–Ra C	7500–Ra C	D 3454–05.	
	Radiochemical		7500–Ra B	7500–Ra B	D 2460–07.	
	Gamma Spectrometry			7500–Ra E		7500–Ra E–07.
Radium 228	Radiochemical		7500–Ra D	7500–Ra D.		
	Gamma Spectrometry			7500Ra–E		7500–Ra E–07.
Uranium	Radiochemical		7500–U B	7500–U B.		
	ICP–MS		3125		D 5673–05, 10, 16.	
	Alpha spectrometry		7500–U C	7500–U C	D 3972–09.	
	Laser Phosphorimetry				D 5174–07.	
	Alpha Liquid Scintillation Spectrometry.				D 6239–09.	
Man-Made:						
Radioactive Cesium	Radiochemical		7500–Cs B	7500–Cs B.		
	Gamma Ray Spectrometry		7120	7120	D 3649–06.	
Radioactive Iodine	Radiochemical		7500–I B	7500–I B	D 3649–06.	
			7500–I C	7500–I C.		
			7500–I D	7500–I D.		
	Gamma Ray Spectrometry		7120	7120	D 4785–08.	
Radioactive Strontium 89, 90.	Radiochemical		7500–Sr B	7500–Sr B.		
Tritium	Liquid Scintillation		7500–^{3}H B	7500–^{3}H B	D 4107–08.	
Gamma Emitters	Gamma Ray		7120	7120	D 3649–06.	
	Spectrometry		7500–Cs B	7500–Cs B	D 4785–08.	
			7500–I B	7500–I B.		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.74(a)(1)

Organism	Methodology	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM Online [3]	Other
Total Coliform	Total Coliform Fermentation Technique.	9221 A, B, C	9221 A, B, C	9221 A, B, C	9221 A,B,C–06.	
	Total Coliform Membrane Filter Technique.	9222 A, B, C		9222 A, B, C.		
	ONPG–MUG Test	9223	9223 B	9223 B	9223 B–04.	
Fecal Coliforms	Fecal Coliform Procedure.	9221 E	9221 E	9221 E	9221 E–06.	
	Fecal Coliform Filter Procedure.	9222 D	9222 D	9222 D	9222 D–06.	
Heterotrophic bacteria	Pour Plate Method	9215 B	9215 B	9215 B	9215 B–04.	
Turbidity	Nephelometric Method	2130 B	2130 B	2130 B		Hach Method 8195, Rev. 3.0.[52]
	Laser Nephelometry (on-line).					Mitchell M5271,[10] Mitchell M5331, Rev. 1.2,[42] Lovibond PTV 6000.[46]
	LED Nephelometry (on-line).					Mitchell M5331,[11] Mitchell M5331, Rev. 1.2,[42] Lovibond PTV 2000.[45]
	LED Nephelometry (on-line).					AMI Turbiwell,[15] Lovibond PTV 1000.[44]
	LED Nephelometry (portable).					Orion AQ4500.[12]
	360° Nephelometry					Hach Method 10258 Rev. 1.0,[39] Hach Method 10258, Rev. 2.0.[51]

ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.74(a)(2)

Residual	Methodology	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	ASTM [4]	Other
Free Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08, –14.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F		
	DPD Colorimetric	4500–Cl G	4500–Cl G		Hach Method 10260.[31]
	Indophenol Colorimetric				Hach Method 10241.[34]
	Syringaldazine (FACTS)	4500–Cl H	4500–Cl H		
	On-line Chlorine Analyzer				EPA 334.0.[16]
	Amperometric Sensor				ChloroSense.[17]
Total Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08, –14.	
	Amperometric Titration (Low level measurement).	4500–Cl E	4500–Cl E.		
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G		Hach Method 10260.[31]
	Iodometric Electrode	4500–Cl I	4500–Cl I.		
	On-line Chlorine Analyzer				EPA 334.0.[16]
	Amperometric Sensor				ChloroSense.[17]
Chlorine Dioxide	Amperometric Titration	4500–ClO_2 C	4500–ClO_2 C.		
	Amperometric Titration	4500–ClO_2 E.	4500–ClO_2 E.		
	Amperometric Sensor				ChlordioX Plus.[32]
Ozone	Indigo Method	4500–O_3 B	4500–O_3 B.		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.131(b)(1)

Contaminant	Methodology	EPA method	ASTM [4]	SM online [3]	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	Other
TTHM	P&T/GC/MS	524.3,[9] 524.4.[29]					
HAA5	LLE (diazomethane)/GC/ECD			6251 B–07	6251 B	6251 B.	
	Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS).	557.[14]					
	Two-Dimensional Ion Chromatography (IC) with Suppressed Conductivity Detection.						Thermo Fisher 557.1.[47]
Bromate	Two-Dimensional Ion Chromatography (IC).	302.0.[18]					
	Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS).	557.[14]					
	Chemically Suppressed Ion Chromatography.		D 6581–08 A.				
	Electrolytically Suppressed Ion Chromatography.		D 6581–08 B.				

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.131(b)(1)—Continued

Contaminant	Methodology	EPA method	ASTM [4]	SM online [3]	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	Other
Chlorite	Chemically Suppressed Ion Chromatography.		D 6581–08 A.				
	Electrolytically Suppressed Ion Chromatography.		D 6581–08 B.				
Chlorite—	daily monitoring as prescribed in 40 CFR 141.132(b)(2)(i)(A).	Amperometric Titration.			4500–ClO_2 E	4500–ClO_2 E.	
	Amperometric Sensor						ChlordioX Plus.[32]

ALTERNATIVE TESTING METHODS FOR DISINFECTANT RESIDUALS LISTED AT 40 CFR 141.131(c)(1)

Residual	Methodology	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	ASTM [4]	Other
Free Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08, –14.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F		
	DPD Colorimetric	4500–Cl G	4500–Cl G		Hach Method 10260.[31]
	Indophenol Colorimetric				Hach Method 10241.[34]
	Syringaldazine (FACTS)	4500–Cl H	4500–Cl H.		
	Amperometric Sensor				ChloroSense.[17]
	On-line Chlorine Analyzer				EPA 334.0.[16]
Combined Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08, –14.	
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F		
	DPD Colorimetric	4500–Cl G	4500–Cl G		Hach Method 10260.[31]
Total Chlorine	Amperometric Titration	4500–Cl D	4500–Cl D	D 1253–08, –14.	
	Low level Amperometric Titration.	4500–Cl E	4500–Cl E.		
	DPD Ferrous Titrimetric	4500–Cl F	4500–Cl F.		
	DPD Colorimetric	4500–Cl G	4500–Cl G		Hach Method 10260.[31]
	Iodometric Electrode	4500–Cl I	4500–Cl I.		
	Amperometric Sensor				ChloroSense.[17]
	On-line Chlorine Analyzer				EPA 334.0.[16]
Chlorine Dioxide	Amperometric Method II	4500–ClO_2 E	4500–ClO_2 E.		
	Amperometric Sensor				ChlordioX Plus.[32]

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ALTERNATIVE TESTING METHODS FOR PARAMETERS LISTED AT 40 CFR 141.131(d)

Parameter	Methodology	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM online [3]	EPA	Other
Total Organic Carbon (TOC)	High Temperature Combustion	5310 B	5310 B	5310 B		415.3, Rev 1.2.[19]	
	Persulfate-Ultraviolet or Heated Persulfate Oxidation.	5310 C	5310 C	5310 C		415.3, Rev 1.2.[19].	Hach Method 10267.[38]
	Wet Oxidation	5310 D	5310 D			415.3, Rev 1.2.[19]	
	Ozone Oxidation						Hach Method 10261.[37]
Specific Ultraviolet Absorbance (SUVA)	Calculation using DOC and UV_{254} data.					415.3, Rev 1.2.[19]	
Dissolved Organic Carbon (DOC).	High Temperature Combustion	5310 B	5310 B	5310 B		415.3, Rev 1.2.[19]	
	Persulfate-Ultraviolet or Heated Persulfate Oxidation.	5310 C	5310 C	5310 C		415.3, Rev 1.2.[19]	
	Wet Oxidation	5310 D	5310 D			415.3, Rev 1.2.[19]	
Ultraviolet absorption at 254 nm (UV_{254}).	Spectrophotometry	5910 B	5910 B	5910 B	5910 B–11	415.3, Rev 1.2.[19]	

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ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.402(c)(2)

Organism	Methodology	SM 20th edition [6]	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM online [3]	Other
E. coli	Colilert		9223 B	9223 B	9223 B	9223 B–97, B–04.	
	Colisure		9223 B	9223 B	9223 B	9223 B–97, B–04.	
	Colilert-18	9223 B	9223 B	9223 B	9223 B	9223 B–97, B–04.	
	Readycult®						Readycult®.[20]
	Colitag						Modified Colitag.™ [13]
	Chromocult®						Chromocult®.[21]
	EC-MUG			9221 F	9221 F	9221 F–06.	
	NA-MUG				9222 I.		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.402(c)(2)—Continued

Organism	Methodology	SM 20th edition [6]	SM 21st edition [1]	SM 22nd edition [28]	SM 23rd edition [49]	SM online [3]	Other
	m-ColiBlue24 Test				9222 J.		
	Tecta EC/TC [33 43]						
Enterococci	Multiple-Tube Technique					9230 B–04.	
	Membrane Filter Techniques.				9230 C.		
	Fluorogenic Substrate Enterococcus Test (using Enterolert).				9230 D.		
Coliphage	Two-Step Enrichment Presence-Absence Procedure.						Fast Phage.[30]

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ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.852(a)(5)

Organism	Methodology category	Method	SM 20th, 21st editions [1 6]	SM 22nd edition [28]	SM 23rd edition [49]	SM online [3]
Total Coliforms	Lactose Fermentation Methods.	Standard Total Coliform Fermentation Technique.		9221 B.1, B.2	9221 B.1, B.2, B.3, B.4.	9221 B.1, B.2–06.
		Presence-Absence (P–A) Coliform Test.			9221 D.1, D.2, D.3.	
	Membrane Filtration Methods.	Standard Total Coliform Membrane Filter Procedure using Endo Media.			9222 B, C.	
		Simultaneous Detection of Total Coliforms and *E. coli* by Dual Chromogen Membrane Filter Procedure (using mColiBlue24 medium).			9222 J.	
	Enzyme Substrate Methods	Colilert®		9223 B	9223 B	9223 B–04.
		Colisure®		9223 B	9223 B	9223 B–04.
		Colilert-18	9223 B	9223 B	9223 B	9223 B–04.
		Tecta EC/TC [33 43]				
Escherichia coli	*Escherichia coli* Procedure (following Lactose Fermentation Methods).	EC–MUG medium		9221 F.1	9221 F.1	9221 F.1–06.
	Escherichia coli Partitioning Methods (following Membrane Filtration Methods).	EC broth with MUG (EC–MUG).			9222 H.	
		NA–MUG medium			9222 I.	
	Simultaneous Detection of Total Coliforms and *E. coli* by Dual Chromogen Membrane Filter Procedure.	mColiBlue24 medium			9222 J.	
	Enzyme Substrate Methods	Colilert®		9223 B	9223 B	9223 B–04.
		Colisure®		9223 B	9223 B	9223 B–04.
		Colilert-18	9223 B	9223 B	9223 B	9223 B–04.
		Tecta EC/TC [33 43]				

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 143.4(b)

Contaminant	Methodology	EPA method	ASTM [4]	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	SM online [3]
Aluminum	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2.[2]				
	Atomic Absorption; Direct			3111 D	3111 D.	
	Atomic Absorption; Furnace			3113 B	3113 B	3113 B–04, B–10.
	Inductively Coupled Plasma			3120 B	3120 B.	
Chloride	Silver Nitrate Titration		D 512–04 B, 12 B.	4500–Cl	4500–Cl	
	Ion Chromatography		D 4327–11	4110 B	4110 B.	
	Potentiometric Titration			4500–Cl⁻ D	4500–Cl⁻ D.	
Color	Visual Comparison			2120 B	2120 B.	
Foaming Agents	Methylene Blue Active Substances (MBAS)			5540 C	5540 C.	
Iron	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2.[2]				
	Atomic Absorption; Direct			3111 B	3111 B.	
	Atomic Absorption; Furnace			3113 B	3113 B	3113 B–04, B–10.
	Inductively Coupled Plasma			3120 B	3120 B.	

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 143.4(b)—Continued

Contaminant	Methodology	EPA method	ASTM [4]	SM 21st edition [1]	SM 22nd edition,[28] SM 23rd edition [49]	SM online [3]
Manganese	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2.[2]				
	Atomic Absorption; Direct			3111 B	3111 B.	
	Atomic Absorption; Furnace			3113 B	3113 B	3113 B–04, B–10.
	Inductively Coupled Plasma			3120 B	3120 B.	
Odor	Threshold Odor Test			2150 B	2150 B.	
Silver	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2.[2]				
	Atomic Absorption; Direct			3111 B	3111 B.	
	Atomic Absorption; Furnace			3113 B	3113 B	3113 B–04, B–10.
	Inductively Coupled Plasma			3120 B	3120 B.	
Sulfate	Ion Chromatography		D 4327–11	4110 B	4110 B.	
	Gravimetric with ignition of residue			4500–SO_4 $^{2-}$ C.	4500–SO_4 $^{2-}$ C.	4500–SO_4 $^{2-}$ C–97.
	Gravimetric with drying of residue			4500–SO_4 $^{2-}$ D.	4500–SO_4 $^{2-}$ D.	4500–SO_4 $^{2-}$ D–97.
	Turbidimetric method		D 516–07, 11, 16.	4500–SO_4 $^{2-}$ E.	4500–SO_4 $^{2-}$ E.	4500–SO_4 $^{2-}$ E–97.
	Automated methylthymol blue method			4500–SO_4 $^{2-}$ F.	4500–SO_4 $^{2-}$ F.	4500–SO_4 $^{2-}$ F–97.
Total Dissolved Solids	Total Dissolved Solids Dried at 180 deg C			2540 C	2540 C.	
Zinc	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2.[2]				
	Atomic Absorption; Direct Aspiration			3111 B	3111 B.	
	Inductively Coupled Plasma			3120 B	3120 B.	

* * * * * * *

[1] *Standard Methods for the Examination of Water and Wastewater,* 21st edition (2005). Available from American Public Health Association, 800 I Street NW, Washington, DC 20001–3710.

[2] EPA Method 200.5, Revision 4.2. ''Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry.'' 2003. EPA/600/R–06/115. (Available at *http://www.epa.gov/water-research/epa-drinking-water-research-methods.*)

[3] Standard Methods Online are available at *http://www.standardmethods.org.* The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[4] Available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959 or *http://astm.org.* The methods listed are the only alternative versions that may be used.

* * * * * * *

[6] *Standard Methods for the Examination of Water and Wastewater,* 20th edition (1998). Available from American Public Health Association, 800 I Street NW, Washington, DC 20001–3710.

[7] Method ME355.01, Revision 1.0. ''Determination of Cyanide in Drinking Water by GC/MS Headspace,'' May 26, 2009. Available at *https://www.nemi.gov* or from James Eaton, H & E Testing Laboratory, 221 State Street, Augusta, ME 04333. (207) 287–2727.

[8] Systea Easy (1-Reagent). ''Systea Easy (1-Reagent) Nitrate Method,'' February 4, 2009. Available at *https://www.nemi.gov* or from Systea Scientific, LLC., 900 Jorie Blvd., Suite 35, Oak Brook, IL 60523.

[9] EPA Method 524.3, Version 1.0. ''Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' June 2009. EPA 815–B–09–009. Available at *https://www.nemi.gov.*

[10] Mitchell Method M5271, Revision 1.1. ''Determination of Turbidity by Laser Nephelometry,'' March 5, 2009. Available at *https://www.nemi.gov* or from Leck Mitchell, Ph.D., PE, 656 Independence Valley Dr., Grand Junction, CO 81507.

[11] Mitchell Method M5331, Revision 1.1. ''Determination of Turbidity by LED Nephelometry,'' March 5, 2009. Available at *https://www.nemi.gov* or from Leck Mitchell, Ph.D., PE, 656 Independence Valley Dr., Grand Junction, CO 81507.

[12] Orion Method AQ4500, Revision 1.0. ''Determination of Turbidity by LED Nephelometry,'' May 8, 2009. Available at *https://www.nemi.gov* or from Thermo Scientific, 166 Cummings Center, Beverly, MA 01915, *http://www.thermo.com.*

[13] Modified Colitag™ Method. ''Modified Colitag™ Test Method for the Simultaneous Detection of *E. coli* and other Total Coliforms in Water (ATP D05–0035),'' August 28, 2009. Available at *https://www.nemi.gov* or from CPI International, 5580 Skylane Boulevard, Santa Rosa, CA 95403.

[14] EPA Method 557. ''Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC–ESI–MS/MS),'' September 2009. EPA 815–B–09–012. Available at *https://www.nemi.gov.*

[15] AMI Turbiwell, ''Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter,'' August 2009. Available at *https://www.nemi.gov* or from Markus Bernasconi, SWAN Analytische Instrumente AG, Studbachstrasse 13, CH–8340 Hinwil, Switzerland.

[16] EPA Method 334.0. ''Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer,'' September 2009. EPA 815–B–09–013. Available at *https://www.nemi.gov.*

[17] ChloroSense. ''Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense,'' August 2009. Available at *https://www.nemi.gov* or from Palintest Ltd., 1455 Jamike Avenue (Suite 100), Erlanger, KY 41018.

[18] EPA Method 302.0. ''Determination of Bromate in Drinking Water using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection,'' September 2009. EPA 815–B–09–014. Available at *https://www.nemi.gov.*

[19] EPA 415.3, Revision 1.2. ''Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water,'' September 2009. EPA/600/R–09/122. Available at *http://www.epa.gov/water-research/epa-drinking-water-research-methods.*

[20] Readycult® Method, ''Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters,'' January, 2007. Version 1.1. Available from EMD Millipore (division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821.

[21] Chromocult® Method, ''Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters,'' November, 2000. Version 1.0. EMD Millipore (division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821.

[22] Hach Company. ''Hach Company SPADNS 2 (Arsenite-Free) Fluoride Method 10225—Spectrophotometric Measurement of Fluoride in Water and Wastewater,'' January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539.

[23] Hach Company. ''Hach Company TNTplus™ 835/836 Nitrate Method 10206—Spectrophotometric Measurement of Nitrate in Water and Wastewater,'' January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539.

[24] EPA Method 525.3. ''Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),'' February 2012. EPA/600/R–12/010. Available at *http://www.epa.gov/water-research/epa-drinking-water-research-methods.*

[25] EPA Method 536. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS),'' October 2007. EPA 815–B–07–002. Available at the National Service Center for Environmental Publications (EPA Method 536).

[26] EPA Method 523. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS),'' February 2011. EPA 815–R–11–002. Available at the National Service Center for Environmental Publications (EPA Method 523).

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[28] *Standard Methods for the Examination of Water and Wastewater,* 22nd edition (2012). Available from American Public Health Association, 800 I Street NW, Washington, DC 20001–3710.

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[32] ChlordioX Plus. ''Chlorine Dioxide and Chlorite in Drinking Water by Amperometry using Disposable Sensors,'' November 2013. Available from Palintest Ltd., 1455 Jamike Avenue (Suite 100), Erlanger, KY 41018.

[33] Tecta EC/TC. ''Techta™ EC/TC Medium and Techta™ Instrument: A Presence/Absence Method for the Simultaneous Detection of Total Coliforms and *Escherichia coli* (*E. coli*) in Drinking Water,'' version 1.0, May 2014. Available from Pathogen Detection Systems, Inc., 382 King Street East, Kingston, Ontario, Canada, K7K 2Y2.

[34] Hach Company. ''Hach Method 10241—Spectrophotometric Measurement of Free Chlorine (Cl_2) in Drinking Water,'' November 2015. Revision 1.2. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[35] Hach Company. ''Hach Method 8026—Spectrophotometric Measurement of Copper in Finished Drinking Water,'' December 2015. Revision 1.2. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[36] Hach Company. ''Hach Method 10272—Spectrophotometric Measurement of Copper in Finished Drinking Water,'' December 2015. Revision 1.2. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[37] Hach Company. ''Hach Method 10261—Total Organic Carbon in Finished Drinking Water by Catalyzed Ozone Hydroxyl Radical Oxidation Infrared Analysis,'' December 2015. Revision 1.2. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[38] Hach Company. ''Hach Method 10267—Spectrophotometric Measurement of Total Organic Carbon (TOC) in Finished Drinking Water,'' December 2015. Revision 1.2. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[39] Hach Company. ''Hach Method 10258—Determination of Turbidity by 360° Nephelometry,'' January 2016. Revision 1.0. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[40] Nitrate Elimination Company Inc. (NECi). ''Method for Nitrate Reductase Nitrate-Nitrogen Analysis of Drinking Water,'' February 2016. Superior Enzymes Inc., 334 Hecla Street, Lake Linden, Michigan 49945.

[41] Thermo Fisher. ''Thermo Fisher Scientific Drinking Water Orthophosphate Method for Thermo Scientific Gallery Discrete Analyzer,'' February 2016. Revision 5. Thermo Fisher Scientific, Ratastie 2, 01620 Vantaa, Finland.

[42] Mitchell Method M5331, Revision 1.2. ''Determination of Turbidity by LED or Laser Nephelometry,'' February 2016. Available from Leck Mitchell, Ph.D., PE, 656 Independence Valley Dr., Grand Junction, CO 81507.

[43] Tecta EC/TC. ''Tecta™ EC/TC Medium and the Tecta™ Instrument: A Presence/Absence Method for the Simultaneous Detection of Total Coliforms and *Escherichia coli* (*E. coli*) in Drinking Water,'' version 2.0, February 2017. Available from Pathogen Detection Systems, Inc., 382 King Street East, Kingston, Ontario, Canada, K7K 2Y2.

[44] Lovibond PTV 1000. ''Continuous Measurement of Drinking Water Turbidity Using a Lovibond PTV 1000 White Light LED Turbidimeter,'' December 2016. Revision 1.0. Available from Tintometer, Inc., 6456 Parkland Drive, Sarasota, FL 34243.

[45] Lovibond PTV 2000. ''Continuous Measurement of Drinking Water Turbidity Using a Lovibond PTV 2000 660-nm LED Turbidimeter,'' December 2016. Revision 1.0. Available from Tintometer, Inc., 6456 Parkland Drive, Sarasota, FL 34243.

[46] Lovibond PTV 6000. ''Continuous Measurement of Drinking Water Turbidity Using a Lovibond PTV 6000 Laser Turbidimeter,'' December 2016. Revision 1.0. Available from Tintometer, Inc., 6456 Parkland Drive, Sarasota, FL 34243.

[47] Thermo Fisher. ''Thermo Fisher Method 557.1: Determination of Haloacetic Acids in Drinking Water using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection,'' January 2017. Version 1.0. Available from Thermo Fisher Scientific, 490 Lakeside Dr., Sunnyvale, CA 94085 (*Richard.jack@thermofisher.com*).

[48] EPA Method 150.3. ''Determination of pH in Drinking Water,'' February 2017. EPA 815–B–17–001. Available at the National Service Center for Environmental Publications (EPA Method 150.3).

[49] *Standard Methods for the Examination of Water and Wastewater,* 23rd edition (2017). Available from American Public Health Association, 800 I Street NW, Washington, DC 20001–3710.

[50] EPA Method 900.0, Rev. 1.0. ''Determination of Gross Alpha and Gross Beta in Drinking Water,'' February 2018. EPA 815–B–18–002. Available at the National Service Center for Environmental Publications (EPA Method 900.0 Rev 1.0).

[51] Hach Company. ''Hach Method 10258—Determination of Turbidity by 360° Nephelometry,'' March 2018. Revision 2.0. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[52] Hach Company. ''Hach Method 8195—Determination of Turbidity by Nephelometry,'' March 2018. Revision 3.0. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539.

[FR Doc. 2018–22162 Filed 10–11–18; 8:45 am]

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Proposed Rules

Federal Register
Vol. 83, No. 198
Friday, October 12, 2018

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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

[Docket No. CFPB–2018–0034]

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is proposing to amend its rule adjusting for inflation the maximum amount of each civil penalty within the Bureau's jurisdiction pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Bureau is proposing an amendment to specify that the adjusted civil monetary penalties only apply to assessments whose associated violations occurred on, or after, November 2, 2015 (the date the 2015 Inflation Adjustment Act amendments were signed into law). The Bureau requests public comment on all aspects of this proposal.

DATES: Comments must be received on or before November 13, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2018–0034 or RIN 3170–AA62, by any of the following methods:

- *eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2018–0034 or RIN 3170–AA62 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5:30 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Monique Chenault, Paralegal Specialist or Shelley Thompson, Counsel, Office of Regulations, at (202) 435–7700 or *https://reginquiries.consumerfinance.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended in 2015 (Inflation Adjustment Act or Act), requires federal agencies to adjust the civil penalty amounts within their respective jurisdictions for inflation not later than July 1, 2016, and then not later than January 15 every year thereafter.[1] The adjustments are designed to keep pace with inflation so that civil penalties retain their deterrent effect and promote compliance with the law.[2]

In June 2016, the Bureau issued an interim final rule (IFR) to create 12 CFR part 1083 and adjust the Bureau's civil penalty amounts.[3] The Bureau did not receive comments in response to the IFR, which became effective on July 14, 2016. The Bureau annually adjusted its civil penalty amounts, as required by the Act, through rules issued in January 2017 and January 2018.[4]

Section 6 of the Inflation Adjustment Act states that the increased civil penalty amounts ''shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.'' [5] 12 CFR 1083.1(b) as implemented by the IFR states that the Bureau's adjusted penalty amounts ''shall apply to civil penalties assessed after July 14, 2016, regardless of when the violation for which the penalty is assessed occurred.'' [6]

The Director of the Office of Management and Budget (OMB) is required to issue guidance every year by December 15 to agencies on implementing the annual civil penalty inflation adjustments.[7] In 2017, the Office of Management and Budget issued guidance stating that, ''[f]or the 2018 annual adjustment, the new penalty amounts should apply to penalties assessed after the effective date of the 2018 annual adjustment—which will be no later than January 15, 2018—including, if consistent with agency policy, assessments whose associated violations occurred on, or after, November 2, 2015'' (*i.e.,* the date the 2015 Amendments were signed into law).[8]

Consistent with the OMB guidance, the Bureau proposes to finalize the IFR with changes that specify that adjusted penalties will apply only to violations that occurred on or after November 2, 2015. The Bureau proposes to revise § 1083.1(b) to read as follows: ''The adjustments in paragraph (a) of this section shall apply to civil penalties

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

[2] *See* Inflation Adjustment Act section 2, *codified* at 28 U.S.C. 2461 note.

[3] 81 FR 38569 (June 14, 2016).

[4] 82 FR 3601 (Jan. 12, 2017); 83 FR 1525 (Jan. 12, 2018).

[5] Inflation Adjustment Act section 6, *codified* at 28 U.S.C. 2461 note.

[6] The subsequent annual adjustments have retained this general language other than updating the date to reflect the effective date of the particular annual adjustment.

[7] Inflation Adjustment Act section 7, *codified* at 28 U.S.C. 2461 note.

[8] Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget, at 4 (Dec. 15, 2017), *available at https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf.* OMB's guidance issued in December 2016 *(https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-11_0.pdf)* contained similar language.

assessed after January 15, 2019, whose associated violations occurred on or after November 2, 2015.'' The Bureau requests comment on this proposed change and all aspects of this proposal.

II. Legal Authority and Proposed Effective Date

The Bureau issues this proposal under the Federal Civil Penalties Inflation Adjustment Act of 1990,[9] as amended by the Debt Collection Improvement Act of 1996 [10] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[11] which requires the Bureau to adjust for inflation the civil penalties within its jurisdiction according to a statutorily prescribed formula.

The Bureau proposes to issue a final rule with an effective date no sooner than January 15, 2019. The Bureau believes the effective date would coincide with, or occur after, the effective date of a 2019 annual adjustment by the Bureau under the Act.[12] The Bureau seeks comment on whether this proposed approach is appropriate.

III. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements. An IRFA or FRFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[13] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[14]

An IRFA is not required for this proposal because if adopted it would not have a significant economic impact on a substantial number of small entities. If adopted as proposed, the rule simply specifies that increased penalty amounts apply only to violations that occurred on or after November 2, 2015, rather than also to violations that occurred prior to November 2, 2015. Because it would limit the civil penalties covered persons may pay, the proposed rule would not impose any additional costs on them. Nor does the rule impose any new, affirmative duty on any small entity or change any existing requirements on small entities, and thus no small entity who is currently complying with the laws that the Bureau enforces will incur any expense from the amended rule.

Accordingly, the Bureau's Acting Director, by signing below, certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. The Bureau requests comment on the analysis above and requests any relevant data.

IV. Paperwork Reduction Act

The Bureau has determined that the proposed rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by OMB under the Paperwork Reduction Act (PRA).[15] The Bureau welcomes comments on this determination or any other aspects of this proposal for purposes of the PRA.

List of Subjects in 12 CFR Part 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth above, the Bureau proposes to amend 12 CFR part 1083, as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1(b) is revised to read as follows:

§ 1083.1 Adjustments of civil penalty amounts.

* * * * *

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 15, 2019, whose associated violations occurred on or after November 2, 2015.

Dated: October 5, 2018.

Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–22217 Filed 10–11–18; 8:45 am]

BILLING CODE 4810–AM–P

[9] Public Law 101–410, 104 Stat. 890.

[10] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

[11] Public Law 114–74, section 701, 129 Stat. 584, 599.

[12] The Administrative Procedure Act generally requires an agency to publish a rule at least 30 days before its effective date. *See* 5 U.S.C. 553(d).

[13] *See* 5 U.S.C. 601 *et seq.*

[14] *See* 5 U.S.C. 609.

[15] 44 U.S.C. 3501 *et seq.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 38

[Docket No. RM05–5–026]

Standards for Business Practices and Communication Protocols for Public Utilities

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to remove the incorporation by reference of the Wholesale Electric Quadrant (WEQ) WEQ–006 Time Error Correction Business Practice Standards as adopted by the North American Energy Standards Board (NAESB) in its WEQ Version 003.0 Businesses Practice Standards. The WEQ–006 Manual Time Error Correction Business Practice Standards previously defined the commercial based procedures to be used for reducing time error to keep the system's time within acceptable limits of true time. NAESB's latest version of its Business Practice Standards retires and eliminates its Manual Time Error Correction Business Practice Standards to correspond with the removal of the Time Error Correction requirements of the North American Electric Reliability Corporation (NERC), which was approved by the Commission in 2017. The Commission also proposes to incorporate by reference Standard WEQ–000 (Version 003.2), which eliminates the definitions of ''Time Error'' and ''Time Error Correction'' as well as making unrelated minor corrections.

DATES: Comments are due November 13, 2018.

ADDRESSES: Comments, identified by Docket No. RM05–5–026, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-

deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Michael P. Lee (technical issues), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6548

Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8321

SUPPLEMENTARY INFORMATION:

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1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes to remove its incorporation by reference of the Wholesale Electric Quadrant (WEQ) WEQ–006 Time Error Correction Business Practice Standards as adopted by the North American Energy Standards Board (NAESB) in its WEQ Version 003.0 Businesses Practice Standards.[1] NAESB adopted the Manual Time Error Correction Business Practice Standard to correspond with a similar reliability standard adopted by the North American Electric Reliability Corporation (NERC). These Time Error Correction standards defined the commercial methods used for reducing time error to keep the system's time within acceptable limits of true time. NERC retired its Time Error Correction reliability standard (BAL–004–0) and the Commission approved that retirement in a letter order issued on January 18, 2017 in Docket No. RD17–1–000. To maintain parallel treatment with NERC's reliability standards, NAESB, in Version 003.2 of its standards, retired and eliminated the standards contained in its WEQ–006 Manual Time Error Correction Business Practice Standards.[2]

I. Background

2. NAESB is a non-profit standards development organization that serves as an industry forum for the development of business practice standards and communication protocols for the wholesale and retail natural gas and electricity industry sectors. Since 1995, NAESB and its predecessor, the Gas Industry Standards Board (GISB), have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.[3]

3. NAESB supports three quadrants of the gas and electric industries—wholesale gas, wholesale electric, and retail markets quadrants.[4] NAESB's standards include business practices intended to standardize and streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each industry. All participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

4. NAESB develops its standards under a consensus process so that the standards draw support from a wide range of industry members. NAESB's procedures are designed to ensure that all persons choosing to participate can have input into the development of a standard, regardless of whether they are members of NAESB, and each standard NAESB adopts is supported by a consensus of the relevant industry segments. Standards that fail to gain consensus support are not adopted. NAESB's consistent practice has been to submit a report to the Commission after it has made revisions to existing business practice standards or has developed and adopted new business practice standards. NAESB has submitted a report to the Commission to reserve specific standards in conjunction with the retirement of corresponding NERC standards. NAESB's standards are voluntary standards, which become mandatory for public utilities upon incorporation by reference by the Commission.

II. Discussion

5. As discussed below, we propose to revise the Commission's regulations at 18 CFR 38.1(b)) to remove the standard WEQ–006 governing the business practices for Time Error Correction. NAESB approved this removal on December 8, 2017. We also propose to incorporate corresponding modifications to WEQ–000, Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, which were adopted by NAESB on that same date.

6. The WEQ–000 Abbreviations, Acronyms, and Definition of Terms standards define the terms used throughout the WEQ Business Practice Standards. Consistent with NAESB's removal of Standard WEQ–006 from the WEQ Version 003.2 Business Practice Standards, NAESB also deleted the terms ''Time Error'' and ''Time Error Correction'' from the WEQ–000 standards as well as making other minor

[1] NAESB's WEQ Version 003.1 and WEQ Version 003.2 Business Practice Standards are currently pending Commission review.

[2] NAESB notified the Commission that it had adopted Version 003.2 of its standards on December 7, 2018, in Docket No. RM05–5–000.

[3] Prior to the establishment of NAESB in 2001, the Commission's development of business practice standards for the wholesale electric industry was aided by two *ad hoc* industry working groups established during the rulemaking proceeding that resulted in issuance of Order No. 889 and the creation of the Open Access Same-Time Information System (OASIS), while GISB's efforts involved the development of business practice standards for the wholesale natural gas industry. Once formally established, NAESB took over the standards development previously handled by GISB and by the electric working groups.

[4] The retail gas quadrant and the retail electric quadrant were combined into the retail markets quadrant. NAESB continues to refer to these working groups as ''quadrants'' even though there are now only three quadrants.

corrections to defined terms unrelated to time error correction.

7. The WEQ–006 Manual Time Error Correction Business Practice Standards defines the commercial based procedures to be used for reducing time error to within acceptable limits of true time. However, NERC and NAESB are both in agreement that it is now appropriate to retire these standards. NERC decided to retire the Reliability Standard BAL–004–0 (Time Error Correction), since the standard does not materially support reliability of the Bulk Power System and has been superseded by newer standards since Order No. 693,[5] rendering Reliability Standard BAL–004–0 redundant. NERC took the first step in accomplishing this by submitting for Commission approval a revision to Reliability Standards BAL–004–0 to retire the standard but reserves the title of the standard as a placeholder. The Commission approved this NERC action in a letter order issued in Docket No. RD17–1–000 on January 18, 2017. After the Commission's approval of NERC's retirement of Reliability Standards BAL–004–0, NAESB submitted a parallel revision to the WEQ Version 003.2 Business Practice Standards in which it retired and reserved all the standards contained in Standard WEQ–006, although NAESB retained the standard number WEQ–006 and the title ''Manual Time Error Correction.'' [6] NAESB also made corresponding revisions to the definitions in Standard WEQ–000. Since NAESB has retired all of the standards governing Manual Time Error Correction, the Commission proposes to remove the NAESB standard WEQ–006 from its incorporation by reference, and to adopt NAESB's revisions to its definitions to ensure consistency between the NERC and NAESB standards.

III. Implementation

8. We do not propose to require public utilities to make filings upon adoption of this proposal to implement the removal of WEQ–006 Manual Time Error Correction. We generally require public utilities to make compliance filings revising their tariffs to acknowledge their responsibility to comply with the revised standards or include a provision in their tariffs stating that they will comply with the latest version of the NAESB business practice standards as incorporated by reference by the Commission.[7] Because we are only proposing to remove a single standard, we see no necessity for those utilities that make tariff filings to incorporate NAESB standards upon adoption of this proposal. Such filings can be made after the Commission addresses the remainder of the standards included in WEQ Version 003.2 of the standards.

IV. Notice of Use of Voluntary Consensus Standards

9. The retirement and reservation of the NAESB WEQ–006 Manual Time Error Correction Business Practice Standards was adopted by NAESB under NAESB's consensus procedures.[8] As the Commission found in Order No. 676, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as a means to carry out policy objectives or activities unless use of such standards would be inconsistent with applicable law or otherwise impractical.[9]

10. Office of Management and Budget Circular A–119 (section 11) (February 10, 1998) provides that Federal Agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. In this NOPR, the Commission is proposing to incorporate by reference NAESB's revised WEQ–006 Manual Time Error Correction Business Practice Standards, which retire and ''reserve'' these standards.

V. Incorporation by Reference

11. The Office of the Federal Register requires agencies incorporating material by reference in final rules to discuss, in the preamble of the final rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials.[10] The regulations also require agencies to summarize, in the preamble of the final rule, the material it incorporates by reference.

12. Prior to NAESB's adoption of the WEQ Version 003.2 Business Practice Standards, earlier iterations of the NAESB WEQ–006 Manual Time Error Correction Business Practice Standards defined the commercial procedures to be used for reducing time error to keep the system's time within acceptable limits of true time. However, in the latest version of this standard (the version of Standard WEQ–006 appearing in the WEQ Version 003.2 Business Practice Standards) NAESB has retired and eliminated these standards. And in this NOPR, we propose to incorporate by reference the version of these standards that retires and reserves Standard WEQ–006.

13. We also propose in this NOPR to incorporate by reference the revised WEQ–000 that deletes the definitions of the terms ''Time Error'' and ''Time Error Correction'' as well as making other minor corrections to defined terms unrelated to time error correction. The WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards provide a single location for all abbreviations, acronyms, and defined terms referenced in the WEQ Business Practice Standards. These standards provide common nomenclature for terms within the wholesale electric industry, reducing confusion and opportunities for misinterpretation or misunderstandings among industry participants.

14. Our regulations provide that copies of the NAESB standards incorporated by reference may be obtained from the North American Energy Standards Board, 801 Travis Street, Suite 1675, Houston, TX 77002, Phone: (713) 356–0060. NAESB's website is located at *http://*

[5] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, PP 382–386, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007). Since issuance of Order No. 693 in 2007, NERC has periodically updated and revised its reliability standards. The standards were most recently updated on July 3, 2018.

[6] NERC replaced the manual time error correction standard with a guideline for automatic time error correction that would manage continued adherence to a frequency approximating 60 Hertz (Hz) over long-term averages. NAESB did not receive a request to adopt, and has not adopted, any business practice standards to complement NERC's automatic time error guideline.

[7] *See Standards for Business Practices and Communication Protocols for Public Utilities,* Order No. 676–H, FERC Stats. & Regs. ¶ 31,359, at P 71.

[8] Under this process, to be approved a standard must receive a super-majority vote of 67 percent of the members of the WEQ's Executive Committee with support from at least 40 percent from each of the five industry segments—transmission, generation, marketer/brokers, distribution/load serving entities, and end users. For final approval, 67 percent of the WEQ's general membership must ratify the standards.

[9] Public Law 104–113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[10] 1 CFR 51.5. *See* Incorporation by Reference, 79 FR 66267 (Nov. 7, 2014).

www.naesb.org/. Copies of the standards may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE, Washington, DC 20426, Phone: (202) 502–8371, *http://www.ferc.gov.*[11]

15. NAESB is a private consensus standards developer that develops voluntary wholesale and retail standards related to the energy industry. The procedures used by NAESB make its standards reasonably available to those affected by the Commission regulations, which generally is comprised of entities that have the means to acquire the information they need to effectively participate in Commission proceedings.[12] NAESB provides a free electronic read-only version of the standards for a three business day period or, in the case of a regulatory comment period, through the end of the comment period.[13] Participants can join NAESB, for an annual membership cost of $7,000, which entitles them to full participation in NAESB and enables them to obtain these standards at no additional cost.[14] Non-members may obtain a complete set of Standards Manuals, Booklets, and Contracts on CD for $2,000 and the Individual Standards Manual or Booklets for each standard by email for $250 per manual or booklet.[15] In addition, NAESB considers requests for waivers of the charges on a case by case basis based on need.

VI. Information Collection Statement

16. The collection of information contained in this proposed rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d).[16] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[17] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

17. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. We propose that the requirement to make compliance tariff filings (included in FERC–516) for the WEQ–006 Business Practice Standards be deferred until final action is taken by the Commission on the entirety of the WEQ Version 003.2 Business Practice Standards for those who continue to opt to specify a specific version of the standards in their tariffs. Therefore, changes to the burden and cost of the FERC–516 (Electric Rate Schedules and Tariff Filings, OMB Control No. 1902–0096) are not being proposed at this time.

18. The following estimates for burden and cost [18] are based on the projected savings due to the retirement and reservation of the WEQ–006 Manual Time Error Correction Business Practice Standards, as adopted by NAESB and proposed to be incorporated by reference in this NOPR.

PROPOSED BURDEN REDUCTION IN NOPR IN DOCKET NO. RM05–5–026 [19]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden (hrs.) & cost ($) per response (4)	Total annual burden hrs. & total annual cost ($) (3) * (4) = (5)
FERC–717 [20] [21] (retirement of WEQ–006 Time Error Correction Standard).	170	1	170	1 hr.; $79 (reduction)	170 hours; $13,430 (reduction).

Title: FERC–717, Open Access Same Time Information System and Standards for Business Practices and Communication Protocols for Public Utilities.

Action: Proposed revision (reduction) to an existing collection.

OMB Control No.: 1902–0173.

Respondents: Business or other for profit.

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

19. *Necessity of the Information:* This proposed rule, if implemented would update the Commission's current business practice and communication standards to retire and remove Standard WEQ–006 on Manual Time Error Correction to be consistent with NERC's retirement of the corresponding reliability standard for Time Error Correction. In addition, we are also proposing to incorporate by reference the revised Standard WEQ–000 (Version 003.2) that deletes the definitions of

[11] 18 CFR 284.12.

[12] As a private, consensus standards developer, NAESB needs the funds obtained from its membership fees and sales of its standards to finance the organization. The parties affected by these Commission regulations generally are highly sophisticated and have the means to acquire the information they need to effectively participate in Commission proceedings.

[13] Procedures for non-members to evaluate work products before purchasing are available at *https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf. See* Incorporation by Reference, 79 FR at 66271, n.51 & 53 (Nov. 7, 2014) (citing to NAESB's procedure of providing ''no-cost, no-print electronic access,'' NAESB Comment at 1, *http://www.regulations.gov/#!documentDetail;D=OFR-2013-0001-0023*).

[14] North American Energy Standards Board Membership Application, *https://www.naesb.org/pdf4/naesbapp.pdf.*

[15] NAESB Materials Order Form, *https://www.naesb.org//pdf/ordrform.pdf.*

[16] 44 U.S.C. 3507(d).

[17] 5 CFR 1320.11.

[18] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2018 average cost (for wages plus benefits), $79.00/hour is used.

[19] As noted above, changes to the FERC–516 are not proposed at this time.

[20] FERC–717 (OMB Control No. 1902–0173) identifies the information collection associated with Standards for Business Practices and Communication Protocols for Public Utilities. We estimate that the proposed retirement in this docket of WEQ–006 will reduce burden for each respondent by 1 hour.

[21] This burden for FERC–717 was originally included in Order 676–H. At that time, we had an estimate of 132 respondents. Due to normal industry fluctuation (*e.g.,* companies merging or splitting, going into or leaving the industry), the number of respondents is now 170.

In Order 676–H (issued 9/18/2014), the estimated average hourly wage (plus benefits) was $72.67. For the calculations here, we are using today's estimated hourly cost of $79.00/hour, as noted above.

''Time Error'' and ''Time Error Correction'', as well as making unrelated minor corrections to the standard.

20. *Internal Review:* The Commission has reviewed the revised business practice standards and has made a preliminary determination that the proposed revisions that we propose here to incorporate by reference are both necessary and useful. In addition, the Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

21. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE, Washington, DC 20426 [Attn: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

22. Comments concerning the information collection proposed for revision in this NOPR and the associated burden estimate should be sent to the Commission in this docket, and by email to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please refer to OMB Control No. 1902–0173 in your submittal to OMB.

VII. Environmental Analysis

23. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[22] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[23] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of electric power that requires no construction of facilities.[24] Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

VIII. Regulatory Flexibility Act Certification

24. The Regulatory Flexibility Act of 1980 (RFA)[25] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA does not mandate any particular outcome in a rulemaking. It only requires consideration of alternatives that are less burdensome to small entities and an agency explanation of why alternatives were rejected.

25. The Small Business Administration (SBA) size standards for electric utilities is based on the number of employees, including affiliates. Under SBA's standards, some transmission owners will fall under the following category and associated size threshold: Electric bulk power transmission and control, at 500 employees.[26]

26. The Commission estimates that 5 of the 170 respondents (or 3%) are small. The Commission estimates that the impact on each entity (large and small) is a proposed reduction or savings of $79.00 (or one hour).

27. Based on the above, the Commission certifies that implementation of the proposed Business Practice Standards will not have a significant impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis is required.

IX. Comment Procedures

28. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 13, 2018. Comments must refer to Docket No. RM05–5–026 and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

29. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

30. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

31. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

X. Document Availability

32. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

33. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

34. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 38

Incorporation by reference, Conflicts of interest, Electric power plants, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

Issued: October 4, 2018.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission proposes to amend part 38, chapter I, title 18, *Code of Federal Regulations,* as follows:

[22] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[23] 18 CFR 380.4.

[24] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[25] 5 U.S.C. 601–612.

[26] 13 CFR 121.201, Sector 22 (Utilities), NAICS code 221121 (Electric Bulk Power Transmission and Control).

PART 38—STANDARDS FOR PUBLIC UTILITY BUSINESS OPERATIONS AND COMMUNICATIONS

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 38.1, by revising paragraph (b)(1) and removing and reserving paragraph (b)(7) to read as follows:

(b) * * *

(1) WEQ–000, Abbreviations, Acronyms, and Definition of Terms (Version 003.2, Dec. 8, 2017);

* * * * *

(7) [Reserved]

* * * * *

[FR Doc. 2018–22074 Filed 10–11–18; 8:45 am]

BILLING CODE 6717–01–P

Notices

Federal Register

Vol. 83, No. 198

Friday, October 12, 2018

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Biofuel Infrastructure Partnership (BIP) Grants to States

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a revision and an extension of a currently approved information collection associated with FSA Biofuel Infrastructure Partnership Grants to States. The FSA Biofuel Infrastructure Partnership (BIP) has collected and used the information to identify applicant States that would be eligible to receive a one-time grant funding opportunity for fuel pumps and related infrastructure, with the goal of encouraging increased ethanol use. Information that BIP is now collecting is needed to monitor BIP grantee implementation and performance of the participating third-party, fueling stations.

DATES: We will consider comments that we receive by December 11, 2018.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection request. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Kelly Novak, Program Manager, USDA, Farm Service Agency, Energy Programs Customer Service Section, 1400 Independence Ave. SW, Room 4718, Washington, District of Columbia 20250.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Kelly Novak at the above address.

FOR FURTHER INFORMATION CONTACT: Kelly Novak, (202) 720–4053. Persons with disabilities who require alternative mean for communication should contact the USDA's TARGET Center at (202) 720–2600 (Voice).

SUPPLEMENTARY INFORMATION:

Title: The Biofuel Infrastructure Partnership Grants to States.

OMB Control Number: 0560–0284.

Expiration Date: March 31, 2019.

Type of Request: Extension with a revision. Collection.

Abstract: This information collection was needed for FSA to identify eligible States for a one-time opportunity for blender pump funding. The goal was to encourage increased ethanol use. FSA required each State interested in a grant to submit an application to FSA with forms specified by FSA. The successfully awarded States were required to report on the funding distribution, which has required third party reporting depending how the States distributed the funds. FSA announced the availability of competitive grants to fund States, the Commonwealth of Puerto Rico, and Washington, DC with respect to activities designed to expand the infrastructure for renewable fuels. The goal was for grantees to provide funds on a one-to-one basis to receive matching CCC funds. The funding has been provided under the authority in section 5(e) of USDA's CCC Charter Act (15 U.S.C. 714c(e)). All tracking from the grantee funding distribution and resultant sale of ethanol/ethanol blended products are reported and retained by FSA. The SF–425, Request for Financial Report, and annual report are the forms FSA supplies to the Grantee State for tracking funding and implementation performance. The burden hours have decreased because there are a fewer grantees submitting annual reporting than anticipated. Mid-year reporting was not required, because reimbursement requesting, and financial reporting was required quarterly in the implementation phase and annual performance reporting will continue through calendar year 2022. In addition, the application process was a one-time opportunity and will not be re-opening; therefore, all application related forms are no longer required.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 0.302 hours per response.

Type of Respondents: BIP State Government grantees.

Estimated Number of Respondents: 19.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses. 19.

Estimated Average Time per Response: 0.302 hours.

Estimated Total Annual Burden Hours on Respondents: 109 hours.

We are requesting comments on all aspects of this information collection to help us to:

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

(2) Evaluate the accuracy of FSA's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the collection of information on those who are respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the

request for OMB approval of the information collection.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2018–22216 Filed 10–11–18; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona 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 the meeting of the Arizona Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Mountain Time) Thursday, October 18, 2018. The purpose of this meeting is for the Committee to discuss a post-advisory memorandum activity and review a potential op-Ed.

DATES: These meetings will be held on Thursday, October 18, 2018 at 12:00 p.m. MST.

Public Call Information: Dial: 800–667–5617, Conference ID: 3860125.

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: 800–667–5617, conference ID number: 3860125. 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 meetings at *https://facadatabase.gov/committee/meetings.aspx?cid=235.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. 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 9/28 Meeting
III. Discuss and Review Draft Op-Ed
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: October 9, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–22238 Filed 10–11–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–881]

Certain Cold Rolled Steel Flat Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Hyundai Steel Company (Hyundai) and POSCO/POSCO Daewoo Co., Ltd. (collectively POSCO/PDW), the two companies selected for individual examination, sold subject merchandise in the United States at prices below normal value during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Daniel Deku, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4475 or (202) 482–5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce initiated this administrative review on November 13, 2017.[1] We selected Hyundai and POSCO/PDW as mandatory respondents. For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum, dated concurrently with these preliminary results and hereby adopted by this notice.[2]

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached to this notice as an Appendix. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The product covered by this order is cold-rolled steel flat products (cold-rolled steel) from the Republic of Korea. For the full text of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 52268 (November 13, 2017).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Certain Cold Rolled Steel Flat Products from the Republic of Korea; 2016–2017,'' dated October 3, 2018 (Preliminary Decision Memorandum).

value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Rates for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have preliminarily calculated weighted-average dumping margins for Hyundai and POSCO/PDW that are not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, we have preliminarily assigned to the company not individually examined (*i.e.,* Hyundai Glovis Co., Ltd.) a margin of 11.68 percent, which is the weighted average of Hyundai and POSCO/PDW calculated weighted-average dumping margins.[3]

Partial Rescission of Review

On February 14, 2018, the petitioners[4] timely withdrew their review requests for certain companies.[5] Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Accordingly, we are rescinding this review with respect to the companies for which all review requests have been withdrawn. For a full description of the methodology and rationale underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

Commerce preliminarily determines that, for the period March 7, 2016, through August 31, 2017, the following weighted-average dumping margins exist:

Producer or exporter	Weighted-average dumping margin (percent)
Hyundai	36.59
POSCO/PDW	2.78
Non-examined companies	11.68

Disclosure, Public Comment, and Opportunity To Request a Hearing

We intend to disclose the calculations performed for these preliminary results of review to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, the content of which is limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.[6] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7] Case and rebuttal briefs should be filed using ACCESS[8] and must be served on interested parties.[9] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* Commerce's electronic records system, ACCESS. An electronically filed request must be received successfully in its entirety by 5:00 p.m. Eastern Time within 30 days of the date of publication of this notice.[10] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a date and time to be determined.[11] Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any case or rebuttal briefs, no later than 120 days after the date of publication of this notice, unless extended.[12]

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

For any individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review and the respondent reported reliable entered values, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the period of review to each importer and the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). If the respondent has not reported reliable entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in

[3] For more information regarding the calculation of this margin, *see* Memorandum, ''Calculation of the Margin for Non-Examined Companies,'' dated October 3, 2018. As the weighting factor, we relied on the publicly ranged sales data reported in Hyundai and POSCO/PDW quantity and value charts.

[4] The petitioners are ArcelorMittal USA LLC; AK Steel Corporation; Nucor Corporation; Steel Dynamics, Inc.; and United States Steel Corporation.

[5] Ameri-Source Korea; Dongbu Steel Co., Ltd.; Dongkuk Steel Mill Co., Ltd.; Dongkuk Industries, Co., Ltd.; GS Global Corp.; Hanawell Co., Ltd.; Hankum Co., Ltd.; Hyuk San Profile Co., Ltd.; Kindus Inc.; Samsung C&T Corp.; Steel N Future; Taihan Electric Wire Co., Ltd.; and Uin Global Co. *See* Petitioners' Letter, ''Cold-Rolled Steel Flat Products from the Republic of Korea—Petitioners' Partial Withdrawal of Administrative Review Request,'' dated February 14, 2018.

[6] *See* 19 CFR 351.309(d).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] *See generally* 19 CFR 351.303.

[9] *See* 19 CFR 351.303(f).

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

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

[12] *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

accordance with 19 CFR 351.106(c)(2). If a respondent's weighted-average dumping margin is zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [13]

For entries of subject merchandise during the POR produced by Hyundai and POSCO/PDW for which the producer did not know its merchandise was destined for the United States, or for any respondent for which we have a final determination of no shipments, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company (or companies) involved in the transaction.[14]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Hyundai, POSCO/PDW, and other companies listed in the final results of review will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or the original investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 20.33 percent,[15] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Partial Rescission of Administrative Review
5. Rates for Non-Examined Companies
6. Affiliation and Collapsing
7. Discussion of the Methodology
8. Adjustments to Cash Deposit Rates for Export Subsidies in Companion Countervailing Duty Review
9. Currency Conversion
10. Recommendation

[FR Doc. 2018–22125 Filed 10–11–18; 8:45 am]

BILLING CODE 3510–DS–P

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[14] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See Certain Cold Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders,* 81 FR 64432 (September 20, 2016) (*Order*).

DEPARTMENT OF COMMERCE

International Trade Administration

Request for Applicants for Appointment to the United States-Brazil CEO Forum

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In March 2007, the Governments of the United States and Brazil established the U.S.-Brazil CEO Forum. This notice announces the opportunity for up to twelve individuals for appointment to the U.S. Section of the Forum. The three-year term of the incoming members of the U.S. Section starts on December 1, 2018, and will expire November 30, 2021. Nominations received in response to this notice will also be considered for on-going appointments to fill any future vacancies that may arise before November 30, 2021.

DATES: Applications for immediate consideration should be received no later than close of business October 31, 2018. After that date, applications will continue to be accepted through November 30, 2021 to fill any new vacancies that may arise.

ADDRESSES: Please send requests for consideration to Raquel Silva, Office of Latin America and the Caribbean, U.S. Department of Commerce, either by email at *Raquel.Silva@trade.gov* or by mail to U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 30014, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Raquel Silva, Office of Latin America and the Caribbean, U.S. Department of Commerce, telephone: (202) 482–4157.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce and the Director of the National Economic Council, together with the Planalto Casa Civil Minister (Presidential Chief of Staff) and the Brazilian Minister of Industry, Foreign Trade & Services, co-chair the U.S.-Brazil CEO Forum (Forum), pursuant to the Terms of Reference signed in March 2007 by the U.S. and Brazilian governments, as amended, which set forth the objectives and structure of the Forum. The Terms of Reference may be viewed at: *http://www.trade.gov/ceo-forum/.* The Forum, consisting of both private and public sector members, brings together leaders of the respective business communities of the United States and Brazil to discuss issues of mutual interest, particularly ways to strengthen the economic and commercial ties between the two countries. The Forum consists of the U.S. and Brazilian Government co-chairs and a Committee comprised of private sector members. The Committee is composed of two Sections, each consisting of approximately ten to twelve members from the private sector, representing the views and interests of the private sector business community in the United States and Brazil. Each government appoints the members to its respective Section. The Committee

provides joint recommendations to the two governments that reflect private sector views, needs and concerns regarding the creation of an economic environment in which their respective private sectors can partner, thrive and enhance bilateral commercial ties to expand trade between the United States and Brazil.

This notice seeks candidates to fill up to twelve positions on the U.S. Section of the Forum as well as any future vacancies that may arise before November 30, 2021. Each candidate must be the Chief Executive Officer or President (or have a comparable level of responsibility) of a U.S.-owned or -controlled company that is incorporated or otherwise organized in and has its main headquarters in the United States and that is currently doing business in both Brazil and the United States. Each candidate also must be a U.S. citizen or otherwise legally authorized to work in the United States and able to travel to Brazil and locations in the United States to attend official Forum meetings as well as independent U.S. Section and Committee meetings. In addition, the candidate may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended. Evaluation of applications for membership in the U.S. Section by eligible individuals will be based on the following criteria:

—A demonstrated commitment by the individual's company to the Brazilian market either through exports or investment.
—A demonstrated strong interest in Brazil and its economic development.
—The ability to offer a broad perspective and business experience to the discussions.
—The ability to address cross-cutting issues that affect the entire business community.
—The ability to initiate and be responsible for activities in which the Forum will be active.
—A demonstrated commitment and ability to attend the majority of Forum meetings.

Members will be selected on the basis of who will best carry out the objectives of the Forum as stated in the Terms of Reference establishing the U.S.-Brazil CEO Forum. The U.S. Section of the Forum should also include members that represent a diversity of business sectors and geographic locations. To the extent possible, U.S. Section members also should represent a cross-section of small, medium, and large firms.

U.S. members will receive no compensation for their participation in Forum-related activities. Individual members will be responsible for all travel and related expenses associated with their participation in the Forum, including attendance at Committee and Section meetings. Only appointed members may participate in official Forum meetings; substitutes and alternates will not be designated. According to the current Terms of Reference, members are normally to serve three-year terms, but may be reappointed.

To be considered for membership, please submit the following information as instructed in the **ADDRESSES** and **DATES** captions above: Name(s) and title(s) of the individual(s) requesting consideration; name and address of company's headquarters; location of incorporation; information that the company is U.S.-owned or U.S.-controlled; size of the company; size of company's export trade, investment, and nature of operations or interest in Brazil; an affirmative statement that the applicant meets all Forum eligibility criteria and is neither registered nor required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended; and a brief statement of why the candidate should be considered, including information about the candidate's ability to initiate and be responsible for activities in which the Forum will be active, and commitment to attending the majority of Forum meetings. Applications will be considered as they are received. All candidates will be notified of whether they have been selected.

Dated: October 4, 2018.

Alexander Peacher,

Acting Director for the Office of Latin America & the Caribbean.

[FR Doc. 2018–22215 Filed 10–11–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB); Public Meeting of the NOAA Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open 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.

DATES: The meeting will be held Thursday, November 1, 2018 from 9:00 a.m. EDT to 5:00 p.m. EDT and on Friday, November 2, 2018 from 9:00 a.m. EDT to 12:00 p.m. EDT. These times and the agenda topics described below are subject to change. Please refer to the web page *www.sab.noaa.gov/SABMeetings.aspx* for the most up-to-date meeting times and agenda.

ADDRESSES: The meeting will be held at The Doubletree Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB website at *http://www.sab.noaa.gov.*

SUPPLEMENTARY INFORMATION: The 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.

Matters to be considered: The meeting will include the following topics: (1) Discussion on the Ecosystems Management Working Group Report (ESMWG) on Citizen Science; (2) Updates and information on elements of the SAB work plan; and (3) Update from the Acting NOAA Administrator and a NOAA Science Update.

Status: The meeting will be open to public participation with a 15-minute public comment period on November 1st from 4:45–5:00 p.m. EDT (check website to confirm time). 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. Individuals or groups planning to make a verbal presentation should contact the SAB Executive Director by October 23, 2017 to schedule their presentation. Written comments should be received in the SAB Executive Director's Office by October 25, 2018, to

provide sufficient time for SAB review. Written comments received by the SAB Executive Director after October 25, 2018, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seating at the meeting will be available on a first-come, first-served basis.

Special accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on October 25, 2018, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Highway, Silver Spring, MC 20910; Email: *Cynthia.Decker@noaa.gov.*

Dated: September 24, 2018.

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–22245 Filed 10–11–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG532

Marine Fisheries Advisory Committee Meeting

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held November 6 and 7, 2018, from 8:30 a.m. to 5 p.m., and November 8, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Sheraton Silver Spring Hotel, 8777 Georgia Ave., Silver Spring, MD 20910; 301–589–0800.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett, MAFAC Assistant Director; 301–427–8034; email: *Heidi.Lovett@noaa.gov.*

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete charter and summaries of prior meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.*

Matters To Be Considered

This meeting time and agenda are subject to change.

The meeting is convened to hear presentations and updates and to discuss policies and guidance on the following topics: Building consumer confidence and support for U.S. seafood; recreational fisheries and fishing effort surveys; Saltonstall Kennedy grant objectives and processes; Columbia Basin Partnership Task Force efforts on the conservation and restoration of salmon and steelhead; aquaculture; and the budget outlook for FY2019. MAFAC will discuss various administrative and organizational matters, and meetings of subcommittees and working groups will be convened.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heidi Lovett; 301–427–8034 by October 26, 2018.

Dated: October 9, 2018.

Jennifer Lukens,

Director for the Office of Policy, National Marine Fisheries Service.

[FR Doc. 2018–22251 Filed 10–11–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF520

Endangered and Threatened Species; Recovery Plan for the Blue Whale and Notice of Initiation of a 5-year Review

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

ACTION: Notice of availability of draft recovery plan; request for comments; notice of initiation of a 5-year review; request for information.

SUMMARY: We, the National Marine Fisheries Service (NMFS), announce the availability of the Draft Revised Recovery Plan (Draft Plan) for the Blue Whale (*Balaenoptera musculus*) for public review. We are soliciting review and comment from the public and all interested parties on the Draft Plan, and will consider all substantive comments received during the review period before submitting the Plan for final approval. We also are initiating a 5-year review of the blue whale and are requesting new information on its status.

DATES: Comments on the Draft Plan and information for the 5-year review must be received by December 11, 2018.

ADDRESSES: You may submit comments on the Draft Plan and information for the 5-year review, identified by NOAA–NMFS–2017–0078, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments on the Draft Plan and information for the 5-year review via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0078.* Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments on the Draft Plan or information for the 5-year review to Chris Yates, Assistant Regional Administrator, Protected Resources Division, NMFS, West Coast Regional Office, Attn: Nancy Young, 7600 Sand Point Way NE, Seattle, WA 98115.

Instructions: Comments or information 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 and information 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.

The Draft Plan is available online at *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0078* or upon request from the NMFS West Coast Region, Protected Resources Division.

FOR FURTHER INFORMATION CONTACT: Nancy Young, (206) 526–6550, *nancy.young@noaa.gov;* or Therese Conant, (916) 930–3627, *therese.conant@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that NMFS develop and implement recovery plans for the

conservation and survival of threatened and endangered species under its jurisdiction, unless it is determined that such plans would not promote the conservation of the species. Section 4(f)(1) of the ESA requires that recovery plans incorporate: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions.

The blue whale (*Balaenoptera musculus*) was listed as endangered throughout its range under the precursor to the ESA, the Endangered Species Conservation Act of 1969, and remained on the list of threatened and endangered species after the passage of the ESA in 1973 (35 FR 8491; June 2, 1970). We prepared a recovery plan for the blue whale that was released for public comment and review on August 1, 1997 (62 FR 41367) and finalized on October 23, 1998 (63 FR 56911). On April 17, 2012, we announced our intent to update the blue whale recovery plan and requested relevant information from the public (77 FR 22760).

NMFS received eight comments in response to the 2012 request for information, three of which contained substantive information on blue whale distribution and habitat use, abundance, and potential threats or limiting factors such as prey competition, noise and disturbance, climate change and ocean acidification, hunting, and ship strikes. Information provided by commenters has been considered and incorporated into the revised Draft Plan where appropriate. In addition, one commenter recommended that NMFS convene a recovery team and revise, rather than update the Plan. The commenter also recommended that the revised Plan address blue whales globally, rather than just the North Atlantic and North Pacific populations; establish recovery criteria; and provide sufficient direction to adequately identify and address threats, particularly ship strikes, noise pollution, climate change and ocean acidification.

The Draft Plan now available for public review and comment is a revision to the 1998 Plan, rather than an update, because of the extent of the changes. Similar to other, recent recovery plans for large whales (*i.e.,* fin whale, sei whale, sperm whale, North Pacific right whale), the revision was drafted by NMFS without a recovery team. The Draft Plan expands the geographical extent of the 1998 Plan by addressing blue whales worldwide; summarizes new information on blue whale natural history, population status, and potential threats; establishes new demographic and threat-based recovery criteria; and outlines a revised set of recovery actions, priority numbers, and estimated blue whale recovery program cost over an initial 5-year period.

Commercial whaling was the main cause of blue whales' historical decline, and is not a current operative threat only because an international moratorium on commercial whaling remains in place. Therefore, a primary strategy of the Draft Plan is to maintain the international ban on commercial hunting that was instituted in 1986. The Draft Plan also provides a strategy to improve our understanding of how potential threats may be limiting blue whale recovery. Finally, the Draft Plan provides a research strategy to obtain data necessary to determine blue whale taxonomy, population structure, distribution, and habitat, which can then inform estimation of population abundance and trends. After the populations and their potential threats are more fully understood, NMFS will modify the Plan to more specifically include actions to minimize any threats that are determined to be limiting recovery.

The total time and cost to recovery are not possible to predict with the current information, particularly given the uncertainty in the significance of potential threats and any actions that might be required to address them. Thus, an estimate of the time required and the cost to carry out those recovery actions needed to achieve the Plan's goal and to achieve intermediate steps (beyond five years) is not practicable. Conducting research necessary to evaluate the impact of the potential threats to blue whales, and developing, implementing, and evaluating the effectiveness of recovery actions to reduce threats or potential threats may take decades. The minimum data needed to satisfy the demographic (abundance and trend) criteria for downlisting or delisting are population structure studies and abundance surveys, which will also take decades, given the species' global distribution and the need to evaluate the abundance trend across a minimum of 30 years (as required by the trend criterion). If the necessary research is undertaken and demonstrates that the abundance and trend criteria have been met, and potential threats are evaluated and, as necessary, minimized or eliminated, it might be feasible to downlist or delist blue whales in 30 years. However, the time to recovery is likely greater, given the available information on abundance of some populations relative to the downlisting and delisting abundance criteria. In the future, as more information is obtained, it may be possible to develop estimates for the full time to recovery and its expense.

NMFS is seeking peer review of the Draft Plan concurrent with public review. NMFS will consider all substantive comments and information provided during the public comment period and by peer reviewers as we finalize this Plan. NMFS is also seeking input on the format of the final Plan and will consider approaches such as the U.S. Fish and Wildlife Service three-part framework for recovery planning and implementation (*https://www.fws.gov/endangered/esa-library/pdf/RPI-Feb2017.pdf*). NMFS is also seeking input on the format of the final Plan and will consider approaches such as the U.S. Fish and Wildlife Service three-part framework for recovery planning and implementation. Once finalized, the Plan will be used to guide U.S. activities and to encourage international cooperation to promote the recovery of this endangered species. NMFS' goal is to restore endangered blue whales to the point where they no longer need the protections of the ESA.

In addition, the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such review under section 4(c)(2)(B), we determine whether any species should be removed from the list (*i.e.,* delisted) or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the blue whale listed as endangered (35 FR 18319; December 2, 1970), as well as announcing the availability of the Draft Plan. Comments and information submitted will be considered in finalizing the Plan and under the 5-year review as applicable.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 5, 2018.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–22218 Filed 10–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG526

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Enforcement Committee and Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, November 1, 2018, beginning at 9:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, Boston Logan, 100 Boardman Street, Boston, MA 02128; phone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The VMS/Enforcement Committee will meet to discuss the cod end Compliance Assistance Program (CAP) and potential changes to it, enforcement of cod discards, enforcement of the Atlantic Large Whale Take Reduction Plan (ALWTRP), and enforcement participation at Plan Development Team (PDT) meetings. The Committee will have a demonstration of the Omega electronic mesh measurement gauge, receive a report comparing the Omega gauge with the current wedge-shaped gauge, and discuss possible Secretarial Action to include the Omega gauge in the regulations. The Committee will review alternatives under consideration in the Habitat clam dredge framework and provide recommendations regarding their enforceability.

The Committee seeks fishermen's input on several items, specifically nearshore trawler boardings and enforcement operations in general, and encourages fishermen to attend. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: October 5, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–22200 Filed 10–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG519

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a webinar meeting of its Groundfish Management Team (GMT) to discuss items on the Pacific Council's November 2018 meeting agenda. The meeting is open to the public.

DATES: The webinar meeting will be held Tuesday, October 30, 2018, from 1 p.m. to 4:30 p.m. Pacific Daylight Time. The scheduled ending time for the GMT webinar is an estimate; the meeting will adjourn when business for the day is completed.

ADDRESSES: This meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar: (1) Join the GoToWebinar by visiting this link *https://www.gotomeeting.com/webinar* (Click ''Join a Webinar'' in top right corner of page), (2) Enter the Webinar ID: 536–654–323, and (3) enter your name and email address (required). After logging into the webinar, you must use your telephone for the audio portion of the meeting. Dial this TOLL number 1–213–929–4212, enter the Attendee phone audio access code 935–797–812, and enter your audio phone pin (shown after joining the webinar). System Requirements: For PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; for Mobile attendees: Required: iPhone®, iPad®, Android™ phone or Android tablet (See *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Todd Phillips, Staff Officer; telephone: (503) 820–2426.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT webinar is to prepare for the Pacific Council's November 2018 agenda items. The GMT's task is to develop recommendations for consideration by the Pacific Council at its November 2018 meeting. The GMT will focus discussions on items related to groundfish management and administrative Pacific Council agenda items. A detailed agenda for the webinar will be available on the Pacific Council's website prior to the meeting. The GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov,* (503) 820–2280) at least 10 days prior to the meeting date.

Dated: October 5, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–22201 Filed 10–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG511

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Charter Halibut Management Committee will meet in October, in Anchorage, AK.

DATES: The meeting will be held on Tuesday, October 30, 2018 from 10 a.m. to 4 p.m. AKDT time.

ADDRESSES: The meeting will be held in the Old Federal Building, 605 W 4th Ave., Suite 205, Anchorage, AK 99501–2252. Teleconference line: (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Steve MacLean, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, October 30, 2018

The purpose of the Charter Halibut Management Committee meeting is to identify a range of potential management measures for the Area 2C and Area 3A charter halibut fisheries in 2019 using the management measures in place for 2018 as a baseline. For Area 2C, the baseline management measure includes regulations applicable to charter halibut fishing in all areas, and a daily limit of one fish less than or equal to 38 inches or greater than or equal to 80 inches. For Area 3A, the baseline management measure includes regulations applicable to charter halibut fishing in all areas, and an annual limit of 4 fish, a daily limit of two fish, one fish of any size, and a second fish which must be 28 inches or less in length. No charter halibut fishing on Wednesdays, all year, and no charter halibut fishing on July 10, July 17, July 24, July 31, August 7, and August 14. Committee recommendations will be incorporated into an analysis for Council review in December 2018. The Council will recommend preferred management measures for consideration by the International Pacific Halibut Commission at its January 2019 meeting, for implementation in 2019.

Resources will be available on the Council's Charter Halibut Management Committee web page at *https://www.npfmc.org/halibut-charter-management/charter-management-committee/.* The Agenda is subject to change, and the latest version will be posted at: *https://www.npfmc.org/committees/charter-management-committee.*

Public Comment

Public comment letters will be accepted and should be submitted either electronically to Steve MacLean, Council staff: *steve.maclean@noaa.gov* or through the mail: North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252. In-person oral public testimony will be accepted at the discretion of the chairman.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: October 5, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–22199 Filed 10–11–18; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 18 October 2018, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW, Washington DC, 20001–2728. Items of discussion may include buildings, parks and memorials. Draft agendas and additional information regarding the Commission are available on our website: *www.cfa.gov.* Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *staff@cfa.gov* ; or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: September 21, 2018 in Washington DC.

Thomas Luebke,

Secretary.

[FR Doc. 2018–21827 Filed 10–11–18; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions; Correction

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice; correction.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled published a document in the **Federal Register** on October 5, 2018, concerning a notice of additions for NSNs: 8455–00–NIB–0139—Name Tape, Embroidered, USAF, Tigerstripe, 8455–00–NIB–0140, Service Tape, Embroidered, USAF, Tigerstripe and 8455–00–NIB–0141, Name tags, Plastic, Engraved, USAF, Blue to the Procurement List for the 100% of the U.S. Air Force. These products are currently on the Procurement List as a service however, the Air Force determined to award the next contract as a product. As the name tapes and tags are currently provided under the AbilityOne Program, they should not have appeared on Friday, October 5, 2018, 83 FR 50347.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117.

Dated: October 9, 2018.

Michael R. Jurkowski,

Business Management Specialist, Business Operations.

[FR Doc. 2018–22258 Filed 10–11–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete a product and services from the Procurement List that was previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* November 11, 2018.

ADDRESSES: Committee for Purchase from People Who are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product and services are proposed for deletion from the Procurement List:

Product

NSN(s)—Product Name(s): MR 377—Socks, Holiday
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Defense Commissary Agency

Services

Service Types:
Grounds Maintenance Service
Janitorial/Custodial Service
U.S. Army Reserve Facility: 4415 N Market Street, Mann Hall, Spokane, WA
U.S. Army Reserve Facility: N 3800 Sullivan Road, Spokane, WA
Mandatory Source of Supply: Good Works, Inc., Spokane, WA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)
Service Type: Disposal Support Service
Mandatory for: Columbus Air Force Base, Columbus AFB, MS
Mandatory Source of Supply: Alabama Goodwill Industries, Inc., Birmingham, AL
Contracting Activity: DEPT OF THE AIR FORCE, FA3022 14 CONS LGCA

Michael R. Jurkowski,
Business Management Specialist, Business Operations.

[FR Doc. 2018–22260 Filed 10–11–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services from the Procurement List previously furnished by such agencies.

DATES: *Date deleted from the Procurement List:* November 11, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 9/7/2018 (83 FR 174), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSN(s)—Product Name(s): 8465–01–463–4649—Tent Bag, Personal Gear Pack
Mandatory Source of Supply: Helena Industries, Inc., Helena, MT
Contracting Activity: Defense Logistics Agency Troop Support
NSN(s)—Product Name(s):
8415–00–782–2949—Trousers, Cold Weather, Unisex, Green, XSmall-Long
8415–00–782–2950—Trousers, Cold Weather, Unisex, Green, Small-Short
8415–00–782–2951—Trousers, Cold Weather, Unisex, Green, Small-Regular
8415–00–782–2952—Trousers, Cold Weather, Unisex, Green, Small-Long
8415–00–782–2953—Trousers, Cold Weather, Unisex, Green, Medium-Short
8415–00–782–2954—Trousers, Cold Weather, Unisex, Green, Medium-Regular
8415–00–782–2955—Trousers, Cold Weather, Unisex, Green, Medium-Long
8415–00–782–2956—Trousers, Cold Weather, Unisex, Green, Large-Short
8415–00–782–2957—Trousers, Cold Weather, Unisex, Green, Large-Regular
8415–00–782–2958—Trousers, Cold Weather, Unisex, Green, Large-Long
8415–00–782–2959—Trousers, Cold Weather, Unisex, Green, Large-Short
8415–00–782–2960—Trousers, Cold Weather, Unisex, Green, Large-Regular
8415–00–782–2961—Trousers, Cold Weather, Unisex, Green, Large-Long
Mandatory Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: Defense Logistics Agency Troop Support
NSN(s)—Product Name(s):
MR 376—Resealable Bags, Holiday, 6.5″ x 5.875″
MR 379—Storage Containers, Holiday, 12 oz. or 16 oz., 6PK
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Defense Commissary Agency

Services

Service Type: Distribution of Licensed Products for the G.R.E.AT
Mandatory for: Department of the Treasury, Bureau of ATF, 650 Massachusetts Ave., Washington, DC
Mandatory Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: DEPARTMENT OF THE TREASURY

Service Type: Mailing Support Service
Mandatory for: Bureau of Public Debt (Offsite: 750 23rd St., Arlington, VA), 200 Third Street, Parkersburg, WV
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: BUREAU OF THE FISCAL SERVICE, PSB 3

Service Type: Custodial and Related Service
Mandatory for: GSA, PBS Region 2, Michael J. Dillon U.S. Federal Courthouse, 68 Court Street, Buffalo, NY
Mandatory Source of Supply: Human Technologies Corporation, Utica, NY
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA PBS R2 ACQUISITION MANAGEMENT DIVISION

Service Type: Janitorial/Custodial Service
Mandatory for: Vancouver Army Barracks, Vancouver, WA
Mandatory Source of Supply: Relay Resources, Portland, OR
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Service Type: Mailroom Service
Mandatory for: National Labor Relations Board, HQ, 1099 14th Street NW, Washington, DC
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: National Labor Relations Board

Service Type: Mailroom Operation Service
Mandatory for: U.S. Army Corps of Engineers: 20 Massachusetts Avenue, Pulaski Building, Washington, DC
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Service Type: Janitorial/Custodial Service
Mandatory for: Naval Command Control & Ocean Surveillance Center: East Coast Division Complex (trailers/laboratories), Charleston, SC
Mandatory Source of Supply: Palmetto Goodwill Services, North Charleston, SC
Contracting Activity: DEPT OF THE NAVY, NAVFAC SOUTHEAST

Service Type: Grounds Maintenance Service
Mandatory for: Lake Sonoma/Warm Springs Dam, Geyserville, CA
Mandatory Source of Supply: Unknown
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Service Type: Janitorial/Custodial Service
Mandatory for: Environmental Protection Agency: Standard Chlorine Site, Delaware City, DE
Mandatory Source of Supply: The Chimes, Inc., Baltimore, MD
Contracting Activity: ENVIRONMENTAL PROTECTION AGENCY

Service Type: Warehouse Operation Service
Mandatory for: National Labor Relations Board HQ, 1099 14th Street, Washington, DC
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: NATIONAL LABOR RELATIONS BOARD

Service Type: Reproduction Service
Mandatory for: Army Materiel Command Headquarters, Alexandria, VA
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Service Type: Mailroom Operation Service
Mandatory for: Fort Stewart, 1042 William H. Wilson Avenue, Suite 219, Fort Stewart, GA
Mandatory Source of Supply: Abilities, Inc. of Florida, Clearwater, FL
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Service Type: Custodial Service
Mandatory for: Consumer Financial Protection Bureau, (Limited areas Floors 1, 3, 4 & 5), 1625 Eye Street NW, Washington, DC
Mandatory Source of Supply: Service Disabled Veterans Business Association, Silver Springs, MD
Contracting Activity: CONSUMER FINANCIAL PROTECTION BUREAU, CFPB PROCUREMENT

Service Type: Janitorial/Custodial Service
Mandatory for: U.S. Army Reserve Center: Los Angeles, Hazard Park, Los Angeles, CA
Mandatory Source of Supply: Lincoln Training Center and Rehabilitation Workshop, South El Monte, CA
Contracting Activity: Dept of the Army, W40M NORTHEREGION CONTRACT OFC

Michael R. Jurkowski,
Business Management Specialist, Business Operations.

[FR Doc. 2018–22259 Filed 10–11–18; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, the Department of Defense announces that the following Federal advisory committee meeting will take place.

DATES: The meeting will be held on Friday, November 9, 2018, Time 9 a.m.–11:30 a.m. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering West Point in order to gain access to the meeting location. All members of the public are subject to security screening.

ADDRESSES: The meeting will be held in the Haig Room, Jefferson Hall, West Point, New York 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996; by email at: *deadra.ghostlaw@usma.edu* or *BoV@usma.edu;* or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

Purpose of the Meeting: This is the 2018 Summer Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues. Agenda: Introduction; Board Business; Superintendent Introduction: Cadet Presentations, Overview of Priorities, Update on Study Day, Cadet Summer Training Assessment, Overview of Recent Conferences and Events.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility on a military post, security screening is required. A government photo ID is required to enter post. In order to enter the installation, members of the public must first go to the Visitor Control Center in the Visitor Center and go

through a background check before being allowed access to the installation. Members of the public then need to park in Buffalo Soldier Field parking lot and ride the Central Post Area (CPA) shuttle bus to the meeting location. Please note that all vehicles and persons entering the installation are subject to search and/or an identification check. Any person or vehicle refusing to be searched will be denied access to the installation. Members of the public should allow at least an hour for security checks and the shuttle ride. The United States Military Academy, Jefferson Hall, is fully handicap accessible. Wheelchair access is available at the south entrance of the building. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–22143 Filed 10–11–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Advisory Committee on Arlington National Cemetery, Remember and Explore Subcommittee and Honor Subcommittee will take place.

DATES: The Remember and Explore Subcommittee will meet on Wednesday November 7, 2018 from 8:00 a.m. to 9:00 a.m. The Honor Subcommittee will meet on November 7, 2018 from 9:30 a.m. to 12:00 p.m.

ADDRESSES: The Remember and Explore and the Honor Subcommittees will meet in the Welcome Center Conference Room, Arlington National Cemetery, and Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Alternate Designated Federal Officer for the subcommittees, in writing at Arlington National Cemetery, Arlington VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585. Website: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the committee's advice and recommendations. The primary purpose of the Remember & Explore Subcommittee is to recommend methods to maintain the Tomb of the Unknown Soldier Monument, including the cracks in the large marble sarcophagus, the adjacent marble slabs, and the potential replacement marble stone for the sarcophagus already gifted to the Army; accomplish an independent assessment of requests to place commemorative monuments within ANC; and identify means to capture and convey ANC's history, including Section 60 gravesite mementos, and improve the quality of visitors' experiences now and for generations to come. The primary purpose of the Honor subcommittee is to accomplish an independent assessment of methods to address the long-term future of the Army national cemeteries, including how best to extend the active burials and what ANC should focus on once all available space is used.

Agenda: The Remember and Explore Subcommittee will deliberate proposals for commemorative monuments. The Honor Subcommittee will deliberate ANC capacity and eligibility considerations.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The ANC Welcome Center Conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard

to the subcommittee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. The Designated Federal Officer will review all timely submitted written comments or statements with the respective subcommittee Chairperson, and ensure the comments are provided to all members of the subcommittee before the meeting. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting. Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow the public to speak or otherwise address the subcommittee during the meeting. However, interested persons may submit a written statement or a request to speak for consideration by the subcommittee. After reviewing any written statements or requests submitted, the subcommittee Chairperson and the Designated Federal Officer may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer in consultation with the subcommittee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–22133 Filed 10–11–18; 8:45 a.m.]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Advisory Committee on Arlington National Cemetery will take place.

DATES: The Committee will meet on Wednesday, November 7, 2018 from 1:00 p.m. to 4:00 p.m.

ADDRESSES: Arlington National Cemetery Welcome Center, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Alternate Designated Federal Officer for the Committee, in writing at Arlington National Cemetery, Arlington, VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585. Website: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations.

Agenda: The Committee will receive reports from subcommittees and deliberate proposals for commemorative monuments and ANC capacity and eligibility considerations.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Arlington National Cemetery conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Committee, in response to the stated agenda of the open meeting or in regard to the Committee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the Committee. The Designated Federal Officer will review all timely submitted written comments or statements with the Committee Chairperson, and ensure the comments are provided to all members of the Committee before the meeting. Written comments or statements received after this date may not be provided to the Committee until its next meeting. Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the Committee's Designated Federal Officer, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Officer will log each request, in the order received, and in consultation with the Committee Chair determine whether the subject matter of each comment is relevant to the Committee's mission and/or the topics to be addressed in this public meeting. Members of the public who have requested to make a comment and whose comments have been deemed relevant under the process described above, will be invited to speak in the order in which their

requests were received by the Designated Federal Officer.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–22132 Filed 10–11–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Health Board will take place.

DATES: Open to the public Tuesday, October 30, 2018, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The address of the open meeting is Defense Health Headquarters (DHHQ), 7700 Arlington Blvd., Pavilion Salons B and C, Falls Church, VA 22042. (Pre-meeting screening for DHHQ access and registration required. See guidance in **SUPPLEMENTARY INFORMATION**, ''Meeting Accessibility.'')

FOR FURTHER INFORMATION CONTACT: CAPT Juliann Althoff, Medical Corps, U.S. Navy, (703) 275–6060 (Voice), (703) 275–6064 (Facsimile), *juliann.m.althoff.mil@mail.mil* (Email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042. Website: *http://www.health.mil/dhb.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Availability of Materials for the Meeting: Additional information, including the agenda, is available at the DHB website, *http://www.health.mil/dhb.* A copy of the agenda or any updates to the agenda for the October 30, 2018, meeting will be available on the DHB website. Any other materials presented in the meeting may be obtained at the meeting.

Purpose of the Meeting: The DHB provides independent advice and recommendations to maximize the safety and quality of, as well as access to, health care for DoD health care beneficiaries. The purpose of the meeting is to provide progress updates on specific taskings before the DHB. In addition, the DHB will receive information briefings on current issues related to military medicine.

Agenda: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the meeting is open to the public from 9:00 a.m. to 5:00 p.m. on October 30, 2018. The DHB anticipates receiving a decision brief from the Trauma and Injury Subcommittee on its Low-Volume High-Risk Surgical Procedure Review, a progress update on the Healthy Military Family Systems: Examining Child Abuse and Neglect tasking as well as a Periodic Health Assessment Standardization information briefing and updates related to previously submitted DHB reports. Any changes to the agenda can be found at the link provided in the **SUPPLEMENTARY INFORMATION** section.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must register by emailing their name, rank/title, and organization/company to *dha.ncr.dhb.mbx.defense-health-board@mail.mil* or by contacting Ms. Brigid McCarthy at (703) 275–6010 no later than 12:00 p.m. on Tuesday, October 23, 2018. Additional details will be required from all members of the public not having DHHQ access.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Brigid McCarthy at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Any member of the public wishing to provide comments to the DHB may do so in accordance with section 10(a)(3) of the Federal Advisory Committee Act, 41 CFR 102–3.105(j) and 102–3.140, and the procedures described in this notice. Written statements may be submitted to the DHB Designated Federal Officer (DFO), CAPT Juliann Althoff, at *juliann.m.althoff.mil@mail.mil* and should be no longer than two type-written pages and include the issue, a short discussion, and a recommended course of action. Supporting documentation may also be included, to establish the appropriate historical context and to provide any necessary background information. If the written statement is not received at least five (5) business days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting. The DFO will review all timely submissions with the DHB President and ensure they are provided to members of the DHB before the meeting that is subject to this notice. After reviewing the written comments, the President and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The DFO, in consultation with the DHB President, may allot time for members of the public to present their issues for review and discussion by the DHB.

Dated: October 9, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–22233 Filed 10–11–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2018–OS–0074]

Privacy Act of 1974; Matching Program

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice of a new matching program.

SUMMARY: The purpose of this Computer Matching Agreement (CMA) is to verify eligibility for DoD/U.S. Coast Guard (USCG) members of the Reserve forces who receive Veterans Affairs (VA) disability compensation or pension to receive, in lieu and upon election, military pay and allowances when performing reserve duty.

DATES: Comments will be accepted on or before November 13, 2018. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination. The life of this CMA is estimated to cover the 18-month period from October 30, 2018 through April 29, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and

Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Zachary A. Parker, Management Analyst, Defense Privacy, Civil Liberties, and Transparency Division, 4800 Mark Center Drive, Suite 08E08, Alexandria, VA 22350–2000, or by phone at (703) 571–0088.

SUPPLEMENTARY INFORMATION: *FY17 Match:* VA will submit to DMDC an electronic file of all VA pension and disability compensation beneficiaries as of the end of September 2017. Defense Manpower Data Center (DMDC) will perform a one-time match by SSN with Reserve pay data submitted by the military services and the USCG. For each SSN match, or ''hit,'' of both data sets, DMDC will provide VA the individual's name and other identifying data, to include the number of training days and paid active duty days, for each matched record. Training days and paid active duty days will be reported as separate totals. The hits will be furnished to VA, which will be responsible for verifying and determining that the data in the DMDC electronic files is consistent with the VA files.

Subsequent Matches: DMDC updates VA-DoD Identity Repository (VADIR) monthly. The electronic data provided by the VA will contain information on approximately 4.2 million pension and disability compensation recipients. VA will use the Reserve military pay data in VADIR to match against VA recipients of VA disability compensation or pension and to resolve any discrepancies or inconsistencies on an individual basis. VA will initiate actions to obtain an election by the individual of which pay he or she wishes to receive and will be responsible for making final determinations as to positive identification, eligibility for, or amounts of pension or disability compensation benefits, adjustments thereto, or any recovery of overpayments, or such other action as authorized by law.

Participating Agencies: The Department of Defense (DoD), Defense Manpower Data Center, DoD and Department of Veterans Affairs (VA).

Authority for Conducting the Matching Program: Title 38 U.S.C. 5304(c), Prohibition Against Duplication of Benefits, provides that VA disability compensation or pension based upon his or her previous military service shall not be paid to a person for any period for which such person receives active service pay.

Title 10 U.S.C. 12316, Payment of Certain Reserves While on Duty, further provides that a Reservist who is entitled to disability payments due to his or her earlier military service and who performs duty for which he or she is entitled to DoD/USCG compensation may elect to receive for that duty either the disability payments, or if he or she waives such payments, the DoD/USCG compensation for the duty performed.

Purpose(s): The purpose of this agreement is to verify eligibility for DoD/USCG members of the Reserve forces who receive VA disability compensation or pension to receive, in lieu and upon election, military pay and allowances when performing reserve duty.

1. For the FY17 match, VA will provide to DMDC identifying information on all VA recipients receiving a VA disability compensation or pension. DMDC will match the information with its Reserve military pay data and provide for each match (hit) the number of training days and the number of active duty days for which the veteran was paid in FY17. The VA will use this information to make, where appropriate, necessary VA payment adjustments. For subsequent matches, VA will use the Reserve military pay data in the VA-DoD Identity Repository (VADIR to match against VA recipients of VA disability compensation or pension). DMDC sends Reserve military pay data to VADIR monthly; the data provided by DMDC include all data elements required for the match.

Categories of Individuals: All Army, Navy, Air Force, Marine Corps, and Coast Guard officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975 (hereafter the ''Armed Forces''); retired Armed Forces personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the Public Health Service (PHS) (with Armed Forces above, hereafter referred to as the ''Uniformed Services''). All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

Current and former DoD civilian employees since January 1, 1972. Veterans who used the Veterans Education Assistance Program (VEAP) from January 1977 through June 1985.

Participants in the Department of Health and Human Services National Longitudinal Survey.

Survivors of retired Armed Forces personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased Armed Forces personnel; 100% disabled veterans and their survivors; and survivors of retired officers of NOAA and PHS who are eligible for, or are currently receiving, Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active and retired members of the Uniformed Services, selective service registrants.

All Federal civilian retirees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

Individuals who are authorized web access to DMDC computer systems and databases.

Categories of Records: Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number (SSN), DoD Identification Number, citizenship data, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; performance ratings of DoD civilian employees and military members; reasons given for leaving military service or DoD civilian service; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, assignment/deployment, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs; date of award of certification

of military experience and training; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Primary and secondary fingerprints of Military Entrance Processing Command (MEPCOM) applicants.

Department of Veteran Affairs disability payment records. Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Extract from Office of Personnel Management (OPM) OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number (SSN), name, and work address.

Military drug test records containing the Social Security Number (SSN), date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

Names of individuals, as well as DMDC assigned identification numbers, and other user-identifying data, such as organization, Social Security Number (SSN), email address, phone number, of those having web access to DMDC computer systems and databases, to include dates and times of access.

System(s) of Records:

1. The DMDC will use the system of records identified as DMDC 01, entitled ''Defense Manpower Data Center Data Base,'' last published in the **Federal Register** at November 23, 2011, 76 FR 72391.

2. VA will use the system of records identified as ''Compensation, Pension, Education and Vocational Rehabilitation and Employment Records—VA'' (58 VA21/22/28), republished in its entirety at 77 FR 42593, July 19, 2012.

Both record system contain an appropriate routine use provision permitting the disclosure and exchange of information pursuant to subsection (b)(3) of the Privacy Act. The routine use provisions are compatible with the purpose for which the information was collected and also reflect that the disclosures are made for computer matching purposes.

Dated: October 9, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–22236 Filed 10–11–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2018–OS–0073]

Privacy Act of 1974; System of Records

AGENCY: Defense Human Resources Activity, DoD.

ACTION: Notice of a new system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records titled, ''DoD Sexual Assault Prevention and Response Office Victim Assistance Data Systems, DHRA 18 DoD.'' This system is used to track victim-related inquiries received by the Sexual Assault Prevention and Response Office (SAPRO) via email, *SAPRO.mil,* the DoD Safe Helpline, phone, or mail. Once received, inquiries are referred to the appropriate agency point of contact and/or to the DoD Office of the Inspector General for any complaints concerning the Military Criminal Investigative Organization to address the matter(s) raised and appropriately facilitate a resolution. In addition, the system will track and facilitate unrestricted and anonymous notifications of sexual abuse and harassment in Military Correctional Facilities, in accordance with the Prison Rape Elimination Act (PREA).

DATES: Comments will be accepted on or before November 13, 2018. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20311–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Sexual Assault Prevention and Response Office (SAPRO) is responsible for oversight of the Department's sexual assault policy per DoD Directive 6495.01, ''Sexual Assault Prevention and Response (SAPR) Program,'' and helps ensure compliance with 28 CFR 115, Prison Rape Elimination Act National Standards. The SAPRO works hand-in-hand with the Military Services and the civilian community to develop, educate, and implement innovative sexual assault prevention and response programs to provide additional information to DoD personnel to increase awareness and promote reporting of sexual assaults. The DoD SAPRO Victim Assistance Data Systems provides the SAPRO with the necessary means to process and track victim-related inquires and PREA notifications received by the SAPRO.

The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *http://dpcld.defense.gov/privacy.*

The proposed systems reports, as required by of the Privacy Act, as amended, were submitted on August 21, 2018, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget

(OMB) pursuant to Section 6 to OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: October 9, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER

DoD Sexual Assault Prevention and Response Office Victim Assistance Data Systems, DHRA 18 DoD.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

DoD Sexual Assault Prevention and Response Office (SAPRO), 4800 Mark Center Drive, Alexandria, VA 22350–1500. Amazon Web Services (AWS), 12900 Worldgate Drive, Suite 800, Herndon, VA 20170–6040.

SYSTEM MANAGER(S):

Senior Victim Assistance Advisor, DoD SAPRO, 4800 Mark Center Drive, Alexandria, VA 22350–1500; telephone 571–372–2657; email *whs.mc-alex.wso.mbx.SAPRO@mail.mil.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 28 CFR 115, Prison Rape Elimination Act National Standards; DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program; DoD Instruction 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures.

PURPOSE(S) OF THE SYSTEM:

To track victim-related inquiries and follow-up support service requests by the SAPRO via email, *SAPR.mil,* the DoD Safe Helpline (SHL), phone, or mail; to respond to requests for SHL marketing and promotional materials; to allow individuals to provide feedback on the services of a sexual assault response coordinator (SARC), victim advocate, or other military staff or employee on their installation/base; to maintain a searchable referrals database that houses contact information for SARCs, medical, legal, chaplain, military police resources, and civilian sexual assault service providers; to provide user access to the Safe Helpline Report Database; to track and facilitate unrestricted and anonymous notifications of sexual abuse and harassment in Military Correctional Facilities, in accordance with the Prison Rape Elimination Act (PREA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request materials or provide feedback on military sexual assault services; SARCs, medical, legal, chaplain, military police, and civilian sexual assault responders; Reportable database users; and individuals who contact the DoD SHL or SAPRO for assistance, follow-up support services, or who provide information about sexual abuse and harassment occurring at Military Correctional Facilities under the Prison Rape Elimination Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

For inquiries, feedback, or support requests the following information may be collected: Requestor/inquirer's full name or pseudonym, personal/work telephone number and email address, home address, user type/position (*e.g.* victim/survivor, family friend, Service member, military spouse, DoD civilian employee, etc.), Service affiliation, rank, base/installation, state, and age; how the inquiry was received (written, email, telephone), type of inquiry (*e.g.,* Army, Navy, Air Force, legal, command, law enforcement, inspector general, medical, DoD Safe Helpline, report of sexual assault, training, etc.), and category of inquiry (*e.g.,* general complaint, criticism of SAPR Personnel or program, general information request, raising a policy issue, report of misconduct, request for Service referral, report of retaliation, praise of SAPR personnel or program); victim's name, Service affiliation, status/position, installation, and inquiry number; installation where the interaction took place, date of incident, the name and/or office and title of the military personnel about which the feedback is being submitted, year assault was reported, if command and/or a Military Criminal Investigation Office was involved, and case synopsis; documents that inquirer submits to SAPRO; permission for SAPRO to follow up on the inquiry; agency to which the inquiry was referred, agency action officer name, documents sent to or received from relevant agency in support of the inquiry, suspense date, and case synopsis sent to the agency; dates that final status was sent to requester and date the inquiry was closed; comments and dates tracking communication between SAPRO, agencies, and inquirer.

PREA notifications may include: Type of notification (*e.g.,* anonymous report via SAPRO, Unrestricted report via SARC, Unrestricted report via SAPRO, etc.); date and time of notification; location and date/time of the incident; victim's full name (for unrestricted reports); caller's full name (for unrestricted reports); caller's contact information (as applicable); caller's relationship to the victim (self or third party); permission from inmate for SAPRO to forward the notification for investigation; SARC location and phone number (unrestricted reports only) and details provided by the caller about the nature of the incident (not including PII for all anonymous reports).

When requesting materials about the Program, the following information may be collected: First and last name, shipping address, personal or work email, installation/base, rank (if applicable), status/position (*e.g.,* Sexual Assault Response Coordinator (SARC), victim advocate, third party organization, etc.), affiliation (*e.g.,* Service, family member, veteran, etc.), and an open comment field for questions and suggestions.

For the DoD and civilian responders the following information may be collected: Name and work-related contact information (installation/base, address, email, phone number).

RECORD SOURCE CATEGORIES:

The individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Veterans Affairs to facilitate the resolution of questions regarding benefits and care in support of a diagnosis with the Veterans Health Affairs related to Military Sexual Trauma and with the Veterans Benefits Affairs in obtaining benefits.

b. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

c. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

d. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or

members in pending or potential litigation to which the record is pertinent.

e. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

f. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

g. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

h. To appropriate agencies, entities, and persons when (1) the DoD suspects or has confirmed there was a breach of the system of records; (2) the DoD determined as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

i. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

System records are stored on electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Name; date of inquiry; and/or Military Correctional Facility, as appropriate.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Victim Related-Inquiry Tracking Files (DD Form 2985 and 2985–1): Records are destroyed 25 years after the end of the calendar year in which the case was resolved.

DD Form 2985–2, Materials Request: Records are destroyed three (3) months after the end of the fiscal year in which the request for material was completed or cancelled.

Responder Database: Obsolete and revised are destroyed one (1) year after the end of the fiscal year.

Reportal Administrative Database: After three (3) continuous years of inactivity, records are closed at the end of that fiscal year; and destroyed after an additional 25 years.

Follow-up Support System: Records are destroyed 25 years after the end of the fiscal year of the close-out of the communication.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Victim-related inquiry records are maintained in a controlled facility employing physical safeguards including the use of combination locks and identification badges. Access to electronic data files in the system is role-based, restricted to personnel with a need to know, and requires a Common Access Card (CAC) and password. Electronic data is also protected via encryption. The database cannot be accessed from the outside as it does not reside on a server and all records are accessible only to authorized persons with a need to know who are properly screened, cleared and trained.

SHL servers are maintained within the Amazon Web Services (AWS) GovCloud network infrastructure. The protections on the network include firewalls, passwords, and web-common security architecture. AWS restricts physical access to the data centers where the SHL servers reside. Physical access logs are reviewed and analyzed on a daily basis by AWS personnel. All PII is stored in a password-protected environment with internal access only. All individuals with access to the data undergo a background investigation and sign a nondisclosure agreement.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155. Signed, written requests should contain the name of the individual, the name and number of this system of records notice, date of incident and/or Military Correctional Facility, if applicable.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Senior Victim Assistance Advisor, DoD SAPRO, Victim Assistance, 4800 Mark Center Drive, Alexandria, VA 22350–1500.

Signed, written requests should contain the name of the requester, the name of the original inquirer, the name of the victim, date of incident and/or Military Correctional Facility, if applicable.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

N/A.

[FR Doc. 2018–22230 Filed 10–11–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of a Final Integrated Feasibility Report (Feasibility Report/Environmental Impact Statement), Little Colorado River at Winslow, Navajo County, Arizona, Flood Risk Management Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps), in cooperation with Navajo County Flood Control District, announces the availability of a Final Integrated Feasibility Report (Final IFR) including Feasibility Report and Environmental Impact Statement (EIS) for the Little Colorado River at Winslow, Navajo County, Arizona Flood Risk Management Project for review and comment. The study evaluates alternatives to reduce the risk of damages and to reduce the life, safety, and health risks caused by flooding of the Little Colorado River (LCR) to the City of Winslow, surrounding community, and public and private infrastructure.

DATES: The Final IFR is available for a 30-day review period pursuant to the National Environmental Policy Act (NEPA).

ADDRESSES: Questions or comments concerning the Final IFR may be directed to: Eduardo T. De Mesa.; Chief, Planning Division; U.S. Army Corps of Engineers; Los Angeles District; 915 Wilshire Boulevard, Suite 930; ATTN: Mr. Kirk C. Brus, CESPL–PD–RL; Los Angeles, CA 90017–3401 or *LCRWinslow@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Richard Legere, U.S. Army Corps of Engineers, Los Angeles District, phone number (602) 230–6907, and Mr. Kirk C. Brus, U.S. Army Corps of Engineers, Los Angeles District, phone number (213) 452–3876.

SUPPLEMENTARY INFORMATION: Comments on the Final IFR may also be given to the contacts listed under **ADDRESSES**.

The document is available for review at:

(1) Online at *http://www.spl.usace.army.mil/Missions/CivilWorks/ProjectsStudies/LittleColoradoRiverWinslow.aspx*
(2) U.S. Army Corps of Engineers, Arizona-Nevada Area Office, 3636 N Central Ave., Suite 900, Phoenix, AZ 85012–1939
(3) Navajo County Library District; 121 W Buffalo Street, Holbrook, AZ 86025
(4) Winslow Public Library; 420 W Gilmore Street, Winslow, AZ 86047
(5) Holbrook Public Library; 403 Park St., Holbrook, AZ 86025
(6) Hopi Public Library; 1 Main Street Kykotsmovi, AZ 86039
(7) Navajo County Flood Control District, 100 W Public Works Drive, Holbrook, AZ 86025
(8) U.S. Army Corps of Engineers, Los Angeles District; 915 Wilshire Blvd., Los Angeles, CA 90017

A Notice of Intent to prepare the Draft EIS was published in the **Federal Register** on February 27, 2009 (74 FR 8918). A Notice of Availability for the Draft IFR was published in the **Federal Register** on June 3, 2016 (81 FR 35756). Public involvement process included a formal public scoping meeting in Winslow, Arizona, on March 24, 2009. The Draft IFR was made available to the public through the Corps Los Angeles District's website on May 26, 2016, and notices that information was available to interested parties and stakeholders were mailed. Two public meetings were held in Winslow on June 9, 2016 concurrent with the release of the Draft IFR, and the public provided oral and written comments during these meetings. Comments on the Draft IFR were also accepted in writing for a 45-day period extending from June 3, 2016 through July 18, 2016. All comments provided on the Draft IFR and responses to comments can be found in the Final IFR, Appendix I (Environmental).

Dated: September 27, 2018.

Aaron C. Barta,

Colonel, U.S. Army, Commander and District Engineer.

[FR Doc. 2018–22134 Filed 10–11–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of the Final Missouri River Recovery Management Plan and Environmental Impact Statement

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; second extension of final EIS waiting period.

SUMMARY: The Notice of Availability for the Final Missouri River Recovery Management Plan and Environmental Impact Statement (MRRMP–FEIS) published in the **Federal Register** on Friday, August 31, 2018, stated the waiting period for signature of the MRRMP–FEIS Record of Decision would end on October 9, 2018. The U.S. Army Corps of Engineers previously extended the waiting period through October 22, 2018 with a notice published in the **Federal Register** on Friday, September 28, 2018. Through this notice, the U.S. Army Corps of Engineers is extending the waiting period again through November 9, 2018.

FOR FURTHER INFORMATION CONTACT: Tiffany Vanosdall, U.S. Army Corps of Engineers at (402) 995–2695 or by email at *tiffany.k.vanosdall@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The MRRMP–FEIS can be downloaded online at: *http://www.nwo.usace.army.mil/mrrp/mgmt-plan/* or at: *http://parkplanning.nps.gov/MRRMP.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–22145 Filed 10–11–18; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0576; FRL–9984–16]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before November 13, 2018.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol or EPA Registration Number of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/

DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov;* or Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov*. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Crop production (NAICS code 111).
• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

B. What should I consider as i prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Uses

1. *EPA Registration Numbers:* 62719–631, 62719–623, and 62719–625. *Docket ID number:* EPA–HQ–OPP–2018–0599. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054 *Active ingredient:* Sulfoxaflor. *Product type:* Insecticide. *Proposed uses:* Rice, avocado, first residential use (ornamentals), commercial ornamentals (tree farms and plantations), and greenhouses. *Contact:* RD.

2. *EPA Registration Numbers:* 71711–4, 71711–18, 71711–19, 71711–40. *Docket ID number:* EPA–HQ–OPP–2018–0162. *Applicant:* Nichino America, Inc., 4550 Linden Hill Rd, Suite 501, Wilmington, DE 19808 *Active ingredient:* Fenpyroximate. *Product type:* Insecticide. *Proposed use:* Banana; blackeyed pea, succulent shelled; broad bean, succulent shelled; bushberry subgroup 13–07B; caneberry subgroup 13–07A; chickpea, succulent shelled; cottonseed subgroup 20C; cowpea, succulent shelled; crowder pea, succulent shelled; goa bean, pods, succulent shelled; lablab bean, succulent shelled; leaf petiole vegetable subgroup 22B; lima bean, succulent shelled; nut, tree group 14–12; southern pea, succulent shelled; soybean, edible, succulent shelled; squash/cucumber subgroup 9B; succulent bean, succulent shelled; and velvet bean, succulent shelled. *Contact:* RD.

3. *EPA File Symbol:* 89459–RNA. *Docket ID number:* EPA–HQ–OPP–2018–0547. *Applicant:* Central Garden & Pet Company; 1501 East Woodfield Road, Suite 200 West; Schaumburg, IL 60173. *Active ingredient:* Acetamiprid. *Product type:* Insecticide. *Proposed use:* Spot-on product for the control of fleas and ticks on cats and kittens. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 1, 2018.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–22255 Filed 10–11–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9985–24–OW]

Information Sessions in Chicago, Boston and Atlanta; Implementation of the Water Infrastructure Finance and Innovation Act of 2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing plans to hold information sessions on Tuesday, November 13, 2018 in Chicago, Illinois; Tuesday, December 11, 2018 in Boston, Massachusetts; and Tuesday, January 15, 2019 in Atlanta, Georgia. The purpose of these sessions is to provide prospective borrowers with a better understanding of the Water Infrastructure Finance and Innovation Act (WIFIA) program's status, eligibility and statutory requirements, application process, and financial benefits and flexibilities. The EPA will also offer 30-minute individual meetings with participants to learn more about prospective borrower projects and answer specific questions. Participants will receive a link to sign-up for these meeting slots after registering for an information session. Additional information sessions and webinars will be announced.

DATES: The session in Chicago, Illinois will be held on Tuesday, November 13, 2018 from 9:00 a.m.–2:30 p.m. (CT) at 77 W Jackson Blvd., Chicago, Illinois 60604. The session in Boston, Massachusetts will be held on Tuesday, December 11, 2018 from 9:00 a.m.–2:30 p.m. (ET) at 5 Post Office Square, Suite 100, Boston, Massachusetts 02109. The session in Atlanta, Georgia will be held on Tuesday, January 15, 2019 from 9:00 a.m.–2:30 p.m. (ET) at 61 Forsyth St. SW, Atlanta, Georgia 30303.

To register: Registration information for the information session is available at *https://www.epa.gov/wifia*.

FOR FURTHER INFORMATION CONTACT: For further information about this notice, including registration information, contact Arielle Gerstein, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–1868; or email: *WIFIA@epa.gov*. Members of the public are invited to participate in the session as capacity allows.

Authority: Water Infrastructure Finance and Innovation Act, Public Law 113–121.

SUPPLEMENTARY INFORMATION: Under WIFIA, the EPA will provide loans and loan guarantees for water infrastructure of national or regional significance. WIFIA was signed into law on June 11, 2014 as Public Law 113–121. The EPA will provide an overview of the program's statutory and eligibility requirements, application and selection process, and creditworthiness assessment. The EPA will also explain the financial benefits of WIFIA credit assistance and provide high-level information about the benefits and flexibilities of closed loans. The intended audience is prospective borrowers including municipal entities, corporations, partnerships, and State Revolving Fund programs, as well as the private and non-governmental organizations that support prospective borrowers.

Dated: September 28, 2018.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2018–22014 Filed 10–11–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9041–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–5632 or *https://www.epa.gov/nepa/*.

Weekly receipt of Environmental Impact Statements

Filed 10/01/2018 Through 10/05/2018

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20180233, Final, EPA, AK, ADOPTION—Liberty Development and Production Plan Beaufort Sea, Alaska Final Environmental Impact Statement, Contact: Erin Seyfried 206–553–1448

The Environmental Protection Agency (EPA) has adopted the Bureau of Ocean and Energy Management's Final EIS No. 2018019, filed 08/22/2018 with the EPA. The EPA was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20180234, Draft, BLM, NV, Deep South Expansion Project, Comment Period Ends: 11/26/2018, Contact: Kevin Hurrell 775–635–4000

EIS No. 20180235, Draft, USACE, VA, Draft Integrated City of Norfolk Coastal Storm Risk Management Feasibility Study, Comment Period Ends: 11/26/2018, Contact: Kathy Perdue 757–201–7218

EIS No. 20180236, Final, USFS, MN, HiLo Project, Review Period Ends: 11/26/2018, Contact: Linda Merriman 218–365–2095

EIS No. 20180237, Final, USACE, AZ, Little Colorado River at Winslow, Navajo County, Arizona, Flood Risk Management Project, Integrated Feasibility Report and Environmental Impact Statement, Review Period Ends: 11/13/2018, Contact: Kirk C. Brus 213–452–3876

EIS No. 20180238, Final, FHWA, UT, S.R. 30, S.R. 23 to 1000 West, Contact: Naomi Kisen 801–965–4005

Pursuant to 23 U.S.C. 139(n)(2), FHWA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20180239, Draft, USACE, CA, Corte Madera Creek Flood Risk Management Project Draft EIS/EIR, Comment Period Ends: 11/27/2018, Contact: Cynthia Jo Fowler 415–503–6870

EIS No. 20180240, Final, NMFS, AK, ADOPTION—Atlantic Fleet Training and Testing, Contact: Donna S. Wieting 301–427–8400

The National Marine Fisheries Service (NMFS) has adopted the U.S. Department of Navy's Final EIS No. 20180210, filed 09/07/2018 with the EPA. NMFS was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20180241, Final, FAA, AK, ADOPTION—Modernization and Enhancement of Ranges Airspace and Training Areas in the Joint Pacific Alaska Range Complex in Alaska, Contact: Paula Miller 202–267–7378

The Federal Aviation Administration (FAA) has adopted the U.S. Air Force's Final EIS No. 20130181, filed 06/20/2013 with the EPA. FAA was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20180242, Final, FAA, GA, ADOPTION—Proposed Modernization and Expansion of Townsend Bombing Range, Contact: Paula Miller 202–267–7378

The Federal Aviation Administration (FAA) has adopted the U.S. Department of Navy's Final EIS No. 20130066 filed 03/14/2013 with the EPA. FAA was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

Amended Notices

EIS No. 20180207, Final, USACE, NE, Missouri River Recovery Management Plan, Review Period Ends: 11/09/2018, Contact: Tiffany Vanosdall 402–995–2695

Revision to FR Notice Published 09/28/2018; Extending the Review Period from 10/22/2018 to 11/09/2018.

Dated: October 9, 2018.

Robert Tomiak, Director,

Office of Federal Activities.

[FR Doc. 2018–22222 Filed 10–11–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0405; FRL–9983–71]

Certain New Chemical Substances; Receipt and Status Information for June 2018

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement

(NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from June 1, 2018 to June 30, 2018.

DATES: Comments identified by the specific case number provided in this document must be received on or before November 13, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0405, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from June 1, 2018 to June 30, 2018. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

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

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995 (60 FR

25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs received by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices received by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier versions were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 6/1/2018 TO 6/30/2018

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–18–0012	1	6/6/2018	Vestaron Corporation	(G) Production of an agricultural product.	(G) Genetically modified yeast.
J–18–0013	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with chromosomally-borne modifications.
J–18–0014	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with chromosomally-borne modifications.
J–18–0015	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with chromosomally-borne modifications.
J–18–0016	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with chromosomally-borne modifications.
J–18–0017	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with (G) Production of biofuel chromosomally-borne modifications.
J–18–0018	5	6/7/2018	CBI	(G) Production of biofuel	(G) Biofuel producing modified microorganism(s), with chromosomally-borne modifications.
P–16–0180A	3	6/25/2018	CBI	(S) Component of industrial and maintenance coatings.	(G) Isocyanic acid, polymethylenepolyphenylene ester, polymer with a-hydro-w-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and alkylene oxide polymer, alkylamine initiated.
P–16–0271A	8	6/8/2018	Oxea Corporation	(S) Flexible PVC plasticizer for wire insulation.	(S) 1,2,4-Benzenetricarboxylic acid, 1,2,4-trinonyl ester.
P–16–0354A	2	6/20/2018	CBI	(G) Intermediate	(G) Esteramine.
P–16–0355A	2	6/20/2018	CBI	(G) Intermediate	(G) Esteramine.
P–16–0424A	3	6/19/2018	Sachem, Inc	(G) Directing agent	(G) Tetraalkylpiperidinium hydroxide.
P–16–0584A	5	6/2/2018	CBI	(G) Additive used to impart specific physicochemical property(ies) to finished articles.	(G) Multi-walled carbon nanotubes.
P–16–0585A	5	6/2/2018	CBI	(G) Additive used to impart specific physicochemical property(ies) to finished articles.	(G) Multi-walled carbon nanotubes.
P–16–0586A	5	6/2/2018	CBI	(G) Additive used to impart specific physicochemical property(ies) to finished articles.	(G) Muti-walled carbon nanotubes.
P–17–0259A	8	6/8/2018	CBI	(G) Curative for thermosetting resins.	(G) Halogenated aromatic amine.
P–17–0267A	6	6/15/2018	Honeywell International	(G) Solvent for dispersive use.	(S) (1) (Z)-1-chloro-3,3,3-trifluoro-1-propene.
P–17–0284A	4	6/1/2018	Monument Chemical Houston, Ltd.	(G) In-process intermediate.	(S) 2-Heptanone, 4-hydroxy.
P–17–0285A	4	6/1/2018	Monument Chemical Houston, Ltd.	(G) In-process intermediate.	(S) 4-Hepten-2-one.
P–17–0312A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compds. with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted amine-disubstituted polypropylene glycol reaction products.
P–17–0313A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)], reaction products with disubstituted amine and disubstituted polypropylene glycol, organic acid salts.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 6/1/2018 TO 6/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–17–0314A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, 2-substituted-, compounds with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted aminedisubstituted polypropylene glycol reaction products.
P–17–0315A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with alpha-(2-substituted-methylethyl)-omega-(2-substituted-methylethoxy)poly[oxy(methyl-1,2-ethanediyl)], 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)], alkylphenyl ethers, reaction products with disubstituted amine, organic acid salts.
P–17–0316A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compounds with bisphenol A-epichlorohydrin-disubstituted polypropylene glycol-polypropylene glycol diglycidyl ether polymer alkylphenyl ethers-disubstituted amine reaction products.
P–17–0317A	6	6/12/2018	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compounds with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted polypropylene glycol reaction products.
P–18–0049	4	6/28/2018	CBI	(G) Coating component/processing aid.	(G) Mixed metal halide.
P–18–0050A	3	6/21/2018	CBI	(G) Raw material in industrial coatings.	(G) Alkane, diisocyanato-, homopolymer, alkyl dihydrogen phosphate- and polyalkylene glycol mono-alkyl ether.
P–18–0104A	3	6/8/2018	CBI	(S) Halogen free flame retardant in thermoplastic polymers.	(G) Acrylic acid, reaction products with pentaerythritol, polymerized.
P–18–0104A	4	6/21/2018	CBI	(S) Halogen free flame retardant in thermoplastic polymers.	(G) Acrylic acid, reaction products with pentaerythritol, polymerized.
P–18–0132A	2	6/7/2018	Cabot Corporation	(S) Pigment dispersing aid.	(G) Substituted Benzene, 4-methoxy-2-nitro-5-[2-[(1E)-1-[[(2-methoxyphenyl)amino]carbonyl]-2-oxopropylidene]hydrazinyl]-, sodium salt (1:1).
P–18–0155A	2	6/04/2018	CBI	(G) Component in cement	(G) Crosslinked polymer of alkyl acrylamides, acrylate esters, and alkyl acrylamide sulfonate salt.
P–18–0155A	3	6/25/2018	CBI	(G) Component in cement	(G) Crosslinked polymer of alkyl acrylamides, acrylate esters, and alkyl acrylamide sulfonic acid.
P–18–0156A	2	6/04/2018	CBI	(G) Component in cement	(G) Crosslinked polymer of alkyl acrylamides, acrylate esters, and alkyl acrylamide sulfonate salt.
P–18–0156A	3	6/25/2018	CBI	(G) Component in cement	(G) Crosslinked polymer of alkyl acrylamides, acrylate esters, and alkyl acrylamide sulfonic acid.
P–18–0168A	2	6/25/2018	CBI	(G) Color additive	(G) alkoxylated triaryl methane.
P–18–0169A	5	6/19/2018	C. L. Hauthaway & Sons Corp.	(G) Protective coating	(G) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with dimethyl carbonate, 1,6-hexanediol, diamine and 1,1′-methylenebis[4-isocyanatocyclohexane], acrylate-blocked, compds. with triethylamine.
P–18–0187	2	6/4/2018	CBI	(G) Emulsifier	(G) Carboxylic acid-polyamine condensate.
P–18–0187A	3	6/14/2018	CBI	(G) Emulsifier	(G) Carboxylic acid-polyamine condensate.
P–18–0197	1	6/1/2018	CBI	(G) Polymer composite additive.	(G) Metal, alkylcarboxylate oxo complexes.
P–18–0198	2	6/6/2018	CBI	(G) Additive for lubricant technologies.	(G) Substituted sulfonic acid salt.
P–18–0199	1	6/1/2018	CBI	(G) Fuel cell component	(G) Rare earth oxide.
P–18–0200	1	6/1/2018	CBI	(G) Insulation component	(G) Waste plastics, poly(ethylene terephthalate), polymers with diethylene glycol, glycerol, polyerythritol, triethylene glycol, trimethylolalkane and polypropylene glycol.
P–18–0201	1	6/1/2018	CBI	(G) Insulation component	(G) Waste plastics, poly(ethylene terephthalate), polymers with diethylene glycol, glycerol, polyerythritol, phthalic anhydride, triethylene glycol, trimethylolalkane, and polypropylene glycol.
P–18–0201A	2	6/7/2018	CBI	(G) Insulation component	(G) Waste plastics, poly(ethylene terephthalate), polymers with diethylene glycol, glycerol, polyerythritol, phthalic anhydride, triethylene glycol, trimethylolalkane, and polypropylene glycol.
P–18–0202	1	6/4/2018	Hexion, Inc	(G) Demulsifier (G) Composite resin, (G) Compatibilizer, (G) Coating resin, (G) Coated abrasives, (G) Foam resin, (G) Friction resin, (G) Refractory resin, (G) Tackifier additives, (G) Bonded abrasives, (G) Rubber additive.	(G) Trialkyl alkanal, polymer with phenol.

TABLE I—PMN/SNUN/MCANS RECEIVED FROM 6/1/2018 TO 6/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0202A	3	6/14/2018	Hexion, Inc	(G) Demulsifier (G) Composite resin, (G) Compatibilizer, (G) Coating resin, (G) Coated abrasives, (G) Foam resin, (G) Friction resin, (G) Refractory resin, (G) Tackifier additives, (G) Bonded abrasives, (G) Rubber additive.	(G) Trialkyl alkanal, polymer with phenol.
P–18–0203	1	6/4/2018	Hexion, Inc	(G) Tackifier additives (G) Rubber additive, (G) Refractory resin, (G) Friction resin, (G) Foam resin, (G) Demulsifier, (G) Composite resin, (G) Compatibilizer, (G) Coating resin, (G) Coated abrasives, (G) Bonded abrasives.	(G) Trialkyl alkanal, polymer with alkylalkanal and phenol.
P–18–0203A	3	6/14/2018	Hexion, Inc	(G) Tackifier additives (G) Rubber additive, (G) Refractory resin, (G) Friction resin, (G) Foam resin, (G) Demulsifier, (G) Composite resin, (G) Compatibilizer, (G) Coating resin, (G) Coated abrasives, (G) Bonded abrasives.	(G) Trialkyl alkanal, polymer with alkylalkanal and phenol.
P–18–0204	1	6/4/2018	Hexion, Inc	(G) Coated abrasives (G) Coating resin, (G) Bonded abrasives, (G) Tackifier additive, (G) Rubber additive, (G) Refractory resin, (G) Friction resin, (G) Foam resin, (G) Demulsifier, (G) Composite resin, (G) Compatibilizer.	(G) Alkyl alkanal, polymer with phenol.
P–18–0204A	3	6/14/2018	Hexion, Inc	(G) Coated abrasives (G) Coating resin, (G) Bonded abrasives, (G) Tackifier additive, (G) Rubber additive, (G) Refractory resin, (G) Friction resin, (G) Foam resin, (G) Demulsifier, (G) Composite resin, (G) Compatibilizer.	(G) Alkyl alkanal, polymer with phenol.
P–18–0205	1	6/4/2018	Hexion, Inc	(G) Tackifier additives (G) Coated abrasives, (G) Coating resin, (G) Compatibilizer, (G) Composite resin, (G) Bonded abrasives, (G) Foam resin, (G) Friction resin, (G) Refractory resin, (G) Rubber additive, (G) Tackifier additive, (G) Demulsifier.	(G) Alkyl alkanal, polymer with formaldehyde and phenol.
P–18–0205A	3	6/14/2018	Hexion, Inc	(G) Tackifier additive (G) Coated abrasives, (G) Coating resin, (G) Compatibilizer, (G) Composite resin, (G) Bonded abrasives, (G) Foam resin, (G) Friction resin, (G) Refractory resin, (G) Rubber additive, (G) Tackifier additive, (G) Demulsifier.	(G) Alkyl alkanal, polymer with formaldehyde and phenol.

TABLE I—PMN/SNUN/MCANs RECEIVED FROM 6/1/2018 TO 6/30/2018—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0206	1	6/4/2018	Hexion, Inc	(G) Bonded abrasives (G) Coated abrasives, (G) Coating resin, (G) Compatibilizer, (G) Composite resin, (G) Demulsifier, (G) Foam resin, (G) Refractory resin, (G) Rubber additive, (G) Tackifier additive.	(G) Alkanal, polymer with phenol.
P–18–0206A	3	6/14/2018	Hexion, Inc	(G) Bonded abrasives (G) Coated abrasives, (G) Coating resin, (G) Compatibilizer, (G) Composite resin, (G) Demulsifier, (G) Foam resin, (G) Refractory resin, (G) Rubber additive, (G) Tackifier additive.	(G) Alkanal, polymer with phenol.
P–18–0207	2	6/6/2018	CBI	(G) Polymer composite additive.	(G) Metal, oxo alkylcarboxylate complexes.
P–18–0208	2	6/14/2018	CBI	(G) Friction reducer	(G) Polymer of acrylamide, substituted ammonium chloride and sodium salt of derivatized propanesulfonic acid.
P–18–0209	1	6/8/2018	CBI	(G) UV curable oligomer	(G) 2-propenoic acid, reaction products with epichlorohydrin and aliphatic diol.
P–18–0210	1	6/11/2018	CBI	(G) Intermediate	(G) Phosphonomethylated ether diamine.
P–18–0211	1	6/12/2018	Patcham USA, LLC	(S) Wetting and dispersing agent for pigment formulations, paints, and coatings.	(G) Alkaneamine, (aminoalkyl)-, polymer with aziridine and 1,6-diisocyanatohexane, polyethylene glycol alkyl ether- and polyethylene-polypropylene glycol aminoalkyl alkyl ether- and alkenyl benzenated polyethylene glycol PH ether.
P–18–0212	1	6/14/2018	Allnex USA, Inc	(S) Coating resin for improved appearance and adhesion.	(G) Substituted carbomonocycle, polymer with alkyl alkenoate, alkenyl substituted carbomonocycle, substituted alkanediol, heteropolycycle, alkylene glycol and alkenoic acid, compounds with alkylamino alkanol.
P–18–0212A	2	6/26/2018	Allnex USA, Inc	(S) Coating resin for improved appearance and adhesion.	(G) Substituted carbomonocycle, polymer with alkyl alkenoate, alkenyl substituted carbomonocycle, substituted alkanediol, heteropolycycle, alkylene glycol and alkenoic acid, compounds with alkylamino alkanol.
P–18–0213	1	6/18/2018	CBI	(S) polyester or polyamide modifer incorporated into backbone of polymer.	(S) 1,3-benzenedicarboxylic acid, 5-sulfo-, calcium salt (2:1).
P–18–0214	1	6/18/2018	CBI	(G) Curing agent	(G) Polycyclic substituted alkane, polymer with cyclicalkylamine, epoxide, and polycyclic epoxide ether, reaction products with dialkylamine substituted alkyl amine.
P–18–0215	1	6/18/2018	CBI	(G) Curing agent	(G) Polycyclic alkane, polymer with monocyclic amine, polycyclic epoxide ether, reaction products with dialkylamine alkyl amine.
P–18–0216	1	6/18/2018	CBI	(G) Curing agent	(G) Polycyclic substituted alkane, polymer with epoxide, reaction products with cyclicalkylamine and dialkylamine substituted alkyl amine.
P–18–0217	3	6/26/2018	Galata Chemicals, LLC	(S) Stabilizer for PVC compound.	(G) Alkyltin dodecylthioester.
P–18–0218	3	6/26/2018	Galata Chemicals, LLC	(S) Stabilizer for PVC compound.	(G) Alkyltin tetradecylthioester.
P–18–0219	2	6/21/2018	CBI	(G) Intermediate for topcoat.	(G) Polythioether, short chain diol polymer terminated with aliphatic diisocyanate.
P–18–0220	1	6/21/2018	Allnex USA, Inc	(S) UV Curable Coating Resin.	(G) Heteromonocycle [(alkylalkylidene)bis(substituted carbomoncycle)]bis-, polymer with alkyl isocyanate, alkenoate (ester).
P–18–0221	1	6/21/2018	Georgia-Pacific Chemicals, LLC.	(S) binder for wood panels.	(G) Polyglycerol reaction product with acid anhydride, etherified.
P–18–0222	1	6/22/2018	Clariant Plastics & Coatings USA, Inc.	(S) Reactive polymer for use in adhesive applications.	(G) Silane, alkenylalkoxy-, polymer with alkene and alkene.
P–18–0223	1	6/26/2018	Clariant Corporation	(S) Selectivity improver for catalysts used in the production of polyolefins.	(G) Alkane, bis(alkoxymethyl)-dimethyl-.
P–18–0227	1	6/29/2018	CBI	(G) Chemical intermediate (G) Corrosion inhibitor.	(S) D-glucaric acid.
P–18–0230	1	6/29/2018	Clariant Plastics & Coatings USA, Inc.	(S) Lubricant and surface protection agent.	(S) Waxes and waxy substances, rice bran, oxidized, calcium salts.
P–18–0231	1	6/29/2018	Allnex USA, Inc	(S) Waterborne UV curable coating resin binder for inkjet, ink or overprint varnish.	(G) Alkanoic acid, substituted alkyl-, polymer with isocyanatoalkane, alkyl carbonate, alkanediol and polyalkylene glycol ether with alkyl(substituted alkyl) alkanediol alkenoate, glycerol monoacrylate alkanoate-blocked.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS RECEIVED FROM 6/1/2018 TO 6/30/2018

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–13–0289 ...	6/27/2018	6/13/2018	.....	(G) Alkanoic acid, tetramethylheteromonocycle ester.
P–13–0878 ...	6/8/2018	5/9/2018	.....	(G) Reaction product of acrylic acid and isocyanate.
P–14–0355 ...	6/6/2018	5/31/2018	.....	(S) 4h-1,3-benzodioxin, hexahydro-4-methyl-2-(phenylmethyl)-.
P–14–0471 ...	6/1/2018	5/9/2018	.....	(G) Acrylate isocyanate polymer.
P–15–0706A	6/12/2018	7/9/2017	Amended substantiation	(G) Aliphatic N-alkyl urea polymer containing cyclohexyl groups and trimethoxy silanes.
P–15–0707A	6/11/2018	7/9/2017	Amended substantiation	(G) Aliphatic N-alkyl urea polymer containing aspartic ester groups and trimethoxy silanes.
P–16–0063 ...	6/12/2018	5/23/2018	.....	(G) Hydroxyl carboxylic acid, compds. with 2-(dimethylamino)ethanol-quaternized bisphenol a-[2-(dimethylamino)ethanol-blocked polymethylenepolyphenylene isocyanate-polypropylene glycol polymer]-epichlorohydrin polymer.
P–16–0130 ...	6/1/2018	5/7/2018	.....	(G) Polyester-amide, polymer of isophthalic acid with glycol, diamine, and amino alcohol.
P–16–0310 ...	6/13/2018	4/9/2018	Amended generic name	(G) 12-Hydroxystearic acid, reaction products with alkylene diamine and alkanoic acid.
P–16–0410A	6/20/2018	4/4/2018	Amended generic name	(G) Phosphonic acid, [(hydroxycyclosiloxanediyl) alkanediyl] dialkyl ester, alkali metal salt, reaction products with alkali metal silicate.
P–16–0588 ...	6/6/2018	5/13/2018	.....	(G) Alkyl methacrylate, polymer with alkyl acrylate and polyesters,.
P–17–0251 ...	6/1/2018	5/8/2018	.....	(G) 1-h-benz[de] isoquinoline-1,3(2h)-dione-2-(-alkyl-)-(-alkyl-amino-),,.
P–17–0273 ...	6/19/2018	6/14/2018	.....	(G) Fatty acid amide alkyl amine salts.
P–17–0353 ...	6/4/2018	5/25/2018	.....	(G) Heteromonocycle, 2-[(bicarbomonocycle-2-substituted)alkyl]-,.
P–17–0373 ...	6/11/2018	6/10/2018	.....	(G) Heteromonocycle, homopolymer, alkyl substituted carbamate, alkyl ester.
P–17–0374 ...	6/12/2018	6/11/2018	.....	(G) Polysiloxanes, di alkyl , substituted alky group-terminated, alkoxylated, reaction products with alkanoic acid, isocyanate substituted-alkyl carbomonocycle and polyol.
P–18–0017 ...	6/29/2018	6/29/2018	.....	(G) Substituted carbomonocycle, polymer with substituted heteromonocycle and substituted polyalkylene glycol.
P–18–0021A	6/1/2018	4/6/2018	Amended generic name	(G) Dicarboxylic acids, polymers with substituted poly(substituted alkenediyl),3-hydroxy-2-(hydroxyalkyl)-2-alkylalkanoic acid, 5-substituted-1-(substituted alkyl)-1,3,3-trialkyl carbomonocyle, alkanediol, alkane-triol, alcohol blocked compounds with aminoalcohol.

In Table III. of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information received by EPA during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 6/1/2018 TO 6/30/2018

Case No.	Received date	Type of test information	Chemical substance
P–16–0543	6/28/2018	Exposure Monitoring Data	(G) halogenophosphoric acid metal salt.
P–17–0253	6/1/2018	Surface Tension Testing	(G) oxirane, 2-methyl-, polymer with oxirane, methyl 2-(substituted carbomonocylce isoquinolin-2(3H)-yl) propyl ether.
P–18–0027	6/11/2018	Acute Toxicity Test with the Fathead Minnow, Pimephales Promelas, as Mitigated by Humic Acid (Test Guideline OPPTS 850.1085).	(G) 2-propenoic acid, 2-alkyl-, 2-(dialkylamino)alkyl ester, polymer with alpha-(2-alkyl-1-oxo-2-alken-1-yl)-omega-methoxypoly(oxy-1,2-alkanediyl).

TABLE III—TEST INFORMATION RECEIVED FROM 6/1/2018 TO 6/30/2018—Continued

Case No.	Received date	Type of test information	Chemical substance
P–18–0031	6/14/2018	*In Vitro* Skin Irritation: Reconstructed Human Epidermis Test (Test Guideline OECD 439).	(G) substituted dicarboxylic acid, polymer with various alkanediols.
P–18–0060	6/29/2018	Preliminary Toxicity Study by Oral Gavage Administration to CD Rats for 14 Days, Combined Repeated Dose Toxicity Study and Reproductive/Developmental Toxicity Screening Study (Test Guideline OECD 422).	(S) 1-butanaminium, 4-amino-N-(2-hydroxy-3-sulfopropyl)-N, N-dimethyl-4-oxo-, N-coco alkyl derivs., inner salts.
P–18–0125	6/7/2018	Physical Property Data	(G) oxoalkylcarboxylic acid, sodium salt.
P–18–0140	6/29/2018	Physical Property Data, Acute Toxicity by Oral Gavage in Rats, Biodegradation Test (Test Guideline OCED 301B), Bovine Corneal Opacity and Permeability Test (Test Guideline OCED 437), *In Vitro* Skin Corrosion: Reconstructed Human Epidermis (Test Guideline OECD 431).	(G) methyl modified lactam.
P–18–0141	6/29/2018	Physical Property Data, Acute Toxicity by Oral Gavage in Rats, (Test Guideline OECD 431), Bacterial Reverse Mutation Test (Test Guideline OECD 471).	(G) ethyl modified lactam.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 27, 2018.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

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BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board—Appointment of Members

AGENCY: U.S. Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the Performance Review Board of the Equal Employment Opportunity Commission (EEOC).

FOR FURTHER INFORMATION CONTACT: Kevin L. Richardson, Chief Human Capital Officer, U.S. Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507, (202) 663–4758.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations to the Chair, EEOC, with respect to performance ratings, pay level adjustments, and performance awards.

The following are the names and titles of executives appointed to serve as members of the SES PRB. Designated members will serve a 12-month term, which begins on November 1, 2018.

PRB Chair:

Mr. Carlton Hadden, Director, Office of Federal Operations, U.S. Equal Employment Opportunity Commission

Members:

Ms. Gwendolyn Reams, Associate General Counsel for Litigation Management Services, U.S. Equal Employment Opportunity Commission

Mr. James Neely, Program Manager, Office of Field Programs, U.S. Equal Employment Opportunity Commission

Mr. Kevin Berry, Program Manager, Office of Field Programs, U.S. Equal Employment Opportunity Commission

Mr. Richard Toscano, Director, Equal Employment Opportunity Staff, U.S. Department of Justice

Ms. Carol Miaskoff, Associate Legal Counsel, U.S. Equal Employment Opportunity Commission (Alternate)

Ms. Rosa Viramontes, Program Manager, U.S. Equal Employment Opportunity Commission (Alternate)

Ms. Delner Franklin-Thomas, Program Manager, U.S. Equal Employment Opportunity Commission (Alternate)

By the direction of the Commission.

Dated: September 28, 2018.

Reuben Daniels, Jr.,

Acting Chief Operating Officer.

[FR Doc. 2018–22249 Filed 10–11–18; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Item From Sunshine Act Meeting

September 25, 2018.

The following item has been deleted from the list of items scheduled for consideration at the Wednesday, September 26, 2018, Open Meeting and previously listed in the Commission's Notice of September 19, 2018.

6	MEDIA	*Title:* Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05–311). *Summary:* The Commission will consider a Second Further Notice of Proposed Rulemaking addressing two issues raised by a remand from the U.S. Court of Appeals for the Sixth Circuit concerning how local franchising authorities may regulate incumbent cable operators and cable television services.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–22386 Filed 10–10–18; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 83 FR 48314

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, September 25, 2018 at 10:00 a.m.

CHANGES IN THE MEETING: The meeting was continued on Tuesday, October 9, 2018.

* * * * *

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

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–22300 Filed 10–10–18; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011284–079.

Agreement Name: Ocean Carrier Equipment Management Association.

Parties: American President Lines, Ltd.; APL Co. Pte. Ltd.; CMA CGM S.A.; Cosco Shipping Co., Ltd.; Evergreen Line Joint Service Agreement; Hamburg Sud; Hapag-Lloyd AG; Hapag-Lloyd USA, LLC; Hyundai Merchant Marine Co., Ltd.; Maersk Line A/S; Mediterranean Shipping Company S.A.; Orient Overseas Container Line Limited; Wan Hai Lines Ltd.; Zim Integrated Shipping Services Ltd.; and Ocean Network Express Pte. Ltd.

Filing Party: Donald Kassilke; Cozen O'Connor.

Synopsis: The amendment deletes Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha Line; and Kawasaki Kisen Kaisha, Ltd. as parties to the Agreement due to the creation of Ocean Network Express Pte. Ltd. The amendment also deletes Yang Ming Marine Transport Corp., which has withdrawn from the Agreement.

Proposed Effective Date: 10/2/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1560

Agreement No.: 201232–002.

Agreement Name: NYSA—ILA Assessment Agreement.

Parties: International Longshoremen's Association, AFL–CIO and the New York Shipping Association.

Filing Party: Donato Caruso, The Lambos Firm LLP; and Andre Mazzola, Marrinan & Mazzola Mardon P.C.

Synopsis: The amendment updates the Agreement to include a resolution which permits the use of assessments to fund additional labor costs for staff employees which are incurred by terminal operators for weekend hiring.

Proposed Effective Date: 10/4/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/2072

Agreement No.: 011730–008.

Agreement Name: GWF/Dole Space Charter and Sailing Agreement.

Parties: Dole Ocean Cargo Express, LLC; Great White Fleet Corp.; and Great White Fleet Liner Services, Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment removes Dole Ocean Cargo Express, Inc. as a party to the Agreement and replaces it with Dole Ocean Cargo Express, LLC.

Proposed Effective Date: 11/10/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/698

Agreement No.: 201278.

Agreement Name: HLAG/ONE Gulf-Central America Slot Charter Agreement.

Parties: Hapag-Lloyd AG and Ocean Network Express Pte. Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The Agreement authorizes Hapag-Lloyd to charter space to ONE on its GCS service in the trade between U.S. Gulf Coast ports and Puerto Rico on the one hand and ports in Mexico, the Dominican Republic, Colombia, Costa Rica, Guatemala, and Honduras on the other hand.

Proposed Effective Date: 11/12/2018.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/16301

Dated: October 5, 2018.

JoAnne O'Bryant,

Program Analyst.

[FR Doc. 2018–22191 Filed 10–11–18; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Solicitation for Nominations To Serve on the Family Caregiving Advisory Council

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Secretary of Health & Human Services (Secretary) seeks nominations for individuals to serve on the Family Caregiving Advisory Council.

DATES: Nominations must be submitted by Monday December 3, 2018. (Nominations submitted via mail must be postmarked by Monday December 3, 2018).

ADDRESSES: You may submit nominations, including attachments, by either of the following methods:

(1) Email: Send to: *RAISEAct@acl.hhs.gov* (specify in the email subject line the name of the nominee)

(2) Mail or express delivery: Submit materials to: Family Caregiving Advisory Council, Administration for Community Living, 330 C Street SW, Washington, DC 20201.

For questions, contact Whitney Bailey at *Whitney.Bailey@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Family Caregiving Advisory Council (the Advisory Council) is authorized under Section 4 of the Recognize, Assist, Include, Support, and Engage Family Caregivers Act of 2017 (Pub. L. 115–119), commonly referred to as the ''RAISE Family Caregivers Act.'' The Advisory Council shall study and prepare findings, conclusions, and recommendations to the Secretary of Health & Human Services on: (a) Evidence-based or promising practices and innovative models for the provision of care by family caregivers or support for family caregivers; and (b) Improving coordination across federal government programs. The Advisory Council also will advise and provide recommendations to the Secretary of Health & Human Services on recognizing and supporting family caregivers. The Advisory Council will consist of at least three ex officio members: The Administrator of the

Centers for Medicare & Medicaid Services (or the Administrator's designee); the Administrator of the Administration for Community Living (or the Administrator's designee who has experience with both aging and disability); and the Secretary of Veterans Affairs (or the Secretary's designee). Heads of other federal departments or agencies (or their designees) also may be appointed as ex officio members. In addition, the Secretary will appoint a maximum of fifteen voting members with at least one from each of the following constituencies: family caregivers; older adults who need long-term services and supports; individuals with disabilities; health care and social service providers; providers of long-term services and supports; employers; paraprofessional workers; state and local officials; accreditation bodies; veterans; and as appropriate, other experts and advocacy organizations engaged in family caregiving. The membership of the Advisory Council will reflect the diversity of family caregivers and individuals receiving services and supports.

Advisory Council Responsibilities: The Advisory Council is required to meet quarterly during its first year and at least three times each year thereafter. Meetings will be open to the public. Advisory Council members will be expected to meaningfully and substantively participate in at least one subcommittee, which will meet periodically between meetings of the full Advisory Council. Within 12 months, the Advisory Council will develop an initial report that includes: (a) An inventory and assessment of all federally funded efforts to recognize and support family caregivers and the outcomes of such efforts, including analyses of the extent to which federally funded efforts are reaching family caregivers and gaps in such efforts; (b) Recommendations to improve and better coordinate federal programs and activities to recognize and support family caregivers, as well as opportunities to improve the coordination of federal and state programs and activities; (c) Recommendations to effectively deliver services based on the performance, mission, and purpose of a program, while eliminating redundancies, avoiding unnecessary duplication and overlap, and ensuring the needs of family caregivers are met; (d) Identification of challenges faced by family caregivers, including financial, health, and other challenges, and existing approaches to address such challenges; and (e) An evaluation of how family caregiving impacts Medicare, Medicaid, and other federal programs. The initial report will be used by the U.S. Department of Health and Human Services to inform the development of a national family caregiving strategy (the strategy), which will be updated biennially. To that end, the Advisory Council shall recommend actions that may be taken by the federal government (under existing programs), state and local governments, communities, health care providers, long-term services and supports providers, and others to recognize and support family caregivers in a manner that reflects their diverse needs. Once the strategy has been published, the Advisory Council will support the preparation of biennial updates, which will include: new developments, challenges, opportunities, and solutions; as well as recommendations for priority actions to improve the implementation of the strategy, as appropriate. In addition, the Advisory Council will submit an annual report on the development, maintenance, and updating of the strategy. The report will include a description of the implementation of the actions recommended in the initial report, as appropriate. This report will be provided to the Secretary, Congress, and the state agencies responsible for carrying out family caregiver programs. The completion of all described activities is dependent upon the identification of federal funding that can be utilized for the purposes of carrying out the legislation.

Nomination Process: Any person or organization may nominate one or more qualified individuals for membership. Nomination packages must include: (1) A nomination letter not to exceed one (1) page that provides the reason(s) for nominating the individual, the constituency they represent (from the list above; may be more than one), and the nominee's particular relevant experience and/or professional expertise; (2) Contact information for the nominee (name, title (if applicable), address, phone, and email address); and (3) The nominee's resume (not to exceed two (2) pages), if the nomination is based on their professional capacity or qualifications. A resume is optional otherwise. Nominees will be appointed based on their demonstrated knowledge, qualifications, and professional or personal experience related to the purpose and scope of the Advisory Council. Members will be appointed for the full life of the Advisory Council, which will sunset in January 2021. Members appointed to fill subsequent vacancies will be appointed for the remainder of the life of the Advisory Council.

Dated: October 4, 2018.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2018–22268 Filed 10–11–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Solicitation for Nominations To Serve on the Advisory Council To Support Grandparents Raising Grandchildren

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Secretary of Health & Human Services (Secretary) seeks nominations for grandparents who are raising grandchildren and older relatives who are caring for children to serve on the Advisory Council to Support Grandparents Raising Grandchildren.

DATES: Nominations must be submitted by Monday December 3, 2018. (Nominations submitted via mail must be postmarked by Monday December 3, 2018.)

ADDRESSES: Nominations, including attachments, may be submitted as follows:

(1) Email: Send to: *SGRG.Act@acl.hhs.gov* (include the name of the nominee in the subject line)

(2) Mail or express delivery: Submit materials to: Advisory Council to Support Grandparents Raising Grandchildren, Administration for Community Living, 330 C Street SW, Washington, DC 20201.

For questions, contact Whitney Bailey at *Whitney.Bailey@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: The number of grandparents and other older relatives who are caring for children is significant and growing, in part due to the opioid crisis. Although caregivers' lives are enhanced by the experience, providing full-time care to children can decrease caregivers' abilities to address their own health and well-being needs. Recognizing that these caregivers would benefit from improved coordination of resources intended to support them, as well as better dissemination of information about those resources, the Supporting Grandparents Raising Grandchildren Act (Pub. L. 115–196) established an Advisory Council to

Support Grandparents Raising Grandchildren The Advisory Council will identify, promote, coordinate, and disseminate to the public information, resources, and the best practices available to help grandparents and other older relatives both meet the needs of the children in their care; and maintain their own physical and mental health and emotional well-being. The Advisory Council is specifically directed to consider the needs of those affected by the opioid crisis, as well as the needs of members of Native American Tribes.

The Department of Health and Human Services is the lead agency, and within it, the Administration for Community Living has been designated to execute its responsibilities.

Membership

The Advisory Council will include the following (or their designees): The Secretary of Health and Human Services; the Secretary of Education; the Administrator of the Administration for Community Living (ACL); the Assistant Secretary for Mental Health and Substance Use; the Assistant Secretary for the Administration for Children and Families; and, as appropriate, the heads of other federal departments or agencies with responsibilities related to current issues affecting grandparents or other older relatives raising children. The Advisory Council also must include at least one grandparent who is raising a grandchild, and at least one older relative caring for children.

Report Requirements: The Advisory Council will develop a report that includes best practices, resources, and other useful information for grandparents and other older relatives raising children (including information related to the needs of children impacted by the opioid epidemic); an identification of gaps in such information and resources; and, where applicable, identification of any additional federal legislative authorities necessary to implement. This report will be provided to the Secretary, Congress, and the state agencies responsible for carrying out family caregiver programs. The initial report will be submitted within six months, with an update submitted within two years. The Advisory Council will establish a process for obtaining public input to inform the development of both the initial report and the subsequent update.

Nomination Process: Any person or organization may nominate one or more qualified grandparents raising grandchildren and/or older relative caregivers of children for membership on the Advisory Committee. ACL also welcomes nominations of others who may be able to provide subject matter expertise or technical contributions to the Advisory Council. This may include (but is not limited to) professionals in academia, providers of supportive services, mental/behavioral health experts, legal and financial service providers, and others who serve these populations. Nomination packages must include: (1) A nomination letter not to exceed one (1) page that provides the reason(s) for nominating the individual, and a description of their relevant experience and/or professional expertise; (2) Contact information for the nominee (name, title (if applicable), address, phone, and email address); and (3) The nominee's resume (not to exceed two (2) pages), if the nomination is based on their professional capacity. For all others, a resume or a written summary of qualifications and life experience (not to exceed two (2) pages) may be submitted, but is not required. Nominees will be appointed based on their demonstrated knowledge, qualifications, and professional or personal experience related to the purpose and scope of the Advisory Council. Members will be appointed for the full life of the Advisory Council, which will sunset in January 2021. Members appointed to fill subsequent vacancies will be appointed for the remainder of the life of the Advisory Council.

Dated: October 5, 2018.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2018–22269 Filed 10–11–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Community Living

Agency Information Collection Activity; Proposed Collection: Public Comment Request; One Protection and Advocacy Annual Program Performance Report

AGENCY: Office of Program Support, Administration on Intellectual and Developmental Disabilities, Administration on Disabilities, Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed new data collection (ICR New) listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice.

This notice seeks to collect comments on the proposed new data collection (ICR New), which will replace four existing Protection and Advocacy Program Performance Reports and other revisions. The four annual reports include the following: (1) Developmental Disabilities Protection and Advocacy Systems Program Performance Report (0985–0027), (2) Protection and Advocacy for Assistive Technology (PAAT) Program Performance Report (0985–0046); (3) Protection and Advocacy Voting Access Annual Report (Help America Vote Act) (HAVA) (0985–0028); and (4) Protection and Advocacy for Traumatic Brain Injury (PATBI) Program Performance Report (0985–0058).

State Protection and Advocacy (P&A) Systems in each State and Territory provide individual legal advocacy, systemic advocacy, monitoring and investigations to protect and advance the rights of people with developmental disabilities, using funding administered by the Administration on Intellectual and Developmental Disabilities (AIDD), Administration on Disabilities, Administration for Community Living, HHS. To meet statutory reporting requirements, P&As have used four separate forms for submitting annual reports. It is proposed that the four forms be combined by creating the One Protection and Advocacy Annual Program Performance Report form. Once the four program performance reports are combined, the current OMB approval numbers for each report will be retired, and a new approval number will be created for the One Protection and Advocacy Program Performance Report.

DATES: Comments on the proposed collection of information must be submitted electronically by 11:59 p.m. (EST) on December 11, 2018.

ADDRESSES: Submit electronic comments on the collection of information by email to: *Clare.Huerta@acl.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Clare Huerta, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, 330 C Street SW, Washington, DC

20201, (202) 795–7301 or *Clare.Huerta@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the proposed collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

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

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

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

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Each P&A system currently submits four separate reports to AIDD—one report for each of the funding sources listed below. It is proposed that the four forms be combined by creating the One Protection and Advocacy Annual Program Performance Report form. By combining the forms, P&As will have a reduced burden because they will be submitting only one report annually. Duplicative background and other data that appear in multiple reports will only need to be entered once. This also will promote accuracy and consistency because this data will not need to be entered multiple times. The authority for each report is as follows:

- The Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 15044: Federal statute and regulation require each P&A to annually prepare a report that describes the activities and accomplishments of the system during the preceding fiscal year and a Statement of Goals and Priorities for each coming fiscal year. P&As are required to annually report on ''the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's goals, the extent to which the goals were achieved, barriers to their achievement, the process used to obtain public input, the nature of such input, and how such input was used.''
- The Children's Health Act of 2000, 42 U.S.C. Section 300d–53(h), requires the P&A System in each State to annually prepare and submit to the Secretary a report that includes documentation of the progress they have made in serving individuals with traumatic brain injury.
- The Assistive Technology Act of 1998, Section 5, as amended, Public Law 108–36, (AT Act), requires the P&A System in each State to annually prepare and submit to the Secretary a report that includes documentation of the progress they have made in—

1. conducting consumer-responsive activities, including activities that will lead to increased access for individuals with disabilities to funding for assistive technology devices and assistive technology services;
2. engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;
3. engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;
4. developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and
5. coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency.

- The Help America Vote Act, Public Law 107–252, Title II, Subtitle D, Section 291, (42 U.S.C. 15461), requires each grantee to annually submit a narrative report describing the work performed with the funds authorized under 42 U.S.C. 15461 of the Help America Vote Act of 2002.

To meet the statutory reporting requirements, P&As have used four separate forms for submitting the Developmental Disabilities Protection and Advocacy (PADD) Program Performance Report; the Protection and Advocacy for Assistive Technology (PAAT) Program Performance Report; the Protection and Advocacy Voting Access Annual Report (Help America Vote Act) (HAVA); and the Protection and Advocacy for Traumatic Brain Injury (PATBI) Program Performance Report. The combined form will also allow federal reviewers to analyze patterns more readily between goals, priority setting, and program performance.

The annual program performance report (PPR) is reviewed by federal staff for compliance and outcomes. Information in the PPRs is analyzed to create a national profile of programmatic compliance, outcomes, and goals and priorities for P&A Systems for tracking accomplishments against these goals and priorities and to determine areas needing technical assistance, including compliance with Federal requirements. Information collected in the unified report will inform AIDD of trends in P&A advocacy, collaboration with other federally-funded entities, and identify best practices for efficient use of federal funds.

The Department specifically requests comments on: (a) Whether the proposed Collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden information to be collected; and (e) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection technique comments and or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

The annual burden on this form is predicted to be 128 hours which is ten percent less than the total of the four previous PPRs. The reduction in hours comes from the elimination of the requirement to enter duplicative information in each PPR.

PPR	Annual hours estimate (based on previous OMB burden estimates
PADD	90
PAAT	16
PATBI	16
HAVA	20
PREVIOUS TOTAL	142
ONE PPR	128

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration on Community Living is soliciting public comment on the specific aspects of the information collection described above. The form is available at *https://www.acl.gov/about-acl/public-input.*

Respondents: 57 Protection and Advocacy Systems.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
One Protection and Advocacy Annual Program Performance Report	57	1	128	7,296

Estimated Total Annual Burden Hours: 7,296.

Dated: October 4, 2018.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2018–22266 Filed 10–11–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0275]

Imposition of Conditions of Entry on Vessels Arriving to the United States From Certain Ports in the Republic of Iraq

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that it will impose conditions of entry on vessels arriving from certain ports in the Republic of Iraq. Conditions of entry are intended to protect the United States from vessels arriving from countries that have been found to have deficient anti-terrorism port measures in place.

DATES: The policy announced in this notice will become effective October 26, 2018.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Juliet Hudson, International Port Security Evaluation Division, United States Coast Guard, telephone 202–372–1173, *Juliet.J.Hudson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Discussion

The authority for this notice is 5 U.S.C. 552(a), 46 U.S.C. 70110, and Department of Homeland Security Delegation No. 0170.1(II)(97.f). As delegated, section 70110(a) authorizes the Coast Guard to impose conditions of entry on vessels arriving in U.S. waters from ports that the Coast Guard has found to have deficient anti-terrorism measures.

On August 21, 2017, the Coast Guard found that the Republic of Iraq failed to maintain effective anti-terrorism measures in its ports and that its designated authority's oversight, access control, security monitoring, security training programs, and security plans drills and exercises are all deficient.

On October 14, 2017, as required by 46 U.S.C. 70109, the Republic of Iraq was notified of this determination, provided recommendations for improving antiterrorism measures, and given 90 days to respond. In January 2018, the Coast Guard re-visited the Republic of Iraq to review Iraq's progress on correcting the security deficiencies. The Coast Guard determined that Iraq failed to maintain effective anti-terrorism measures with the exeptions of three port facilities: The Al-Basrah Oil Terminal, the Khor Al Amaya Oil Terminal and Al Maqal Terminal 14 (also known as the North America Western Asia Holdings Facility).

Accordingly, beginning October 26, 2018, the conditions of entry shown in Table 1 will apply to any vessel that visited a port in the Republic of Iraq in its last five port calls, with the exception of the ports the Al-Basrah Oil Terminal, the Khor Al Amaya Oil Terminal, and Al Maqal Terminal 14.

TABLE 1—CONDITIONS OF ENTRY FOR VESSELS VISITING PORTS IN THE REPUBLIC OF IRAQ

No.	Each vessel must:
1	Implement measures per the vessel's security plan equivalent to Security Level 2 while in a port in the Republic of Iraq. As defined in the ISPS Code and incorporated herein, ''Security Level 2'' refers to the ''level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident.''
2	Ensure that each access point to the vessel is guarded and that the guards have total visibility of the exterior (both landside and waterside) of the vessel while the vessel is in ports in the Republic of Iraq.

TABLE 1—CONDITIONS OF ENTRY FOR VESSELS VISITING PORTS IN THE REPUBLIC OF IRAQ—Continued

No.	Each vessel must:
3	Guards may be provided by the vessel's crew; however, additional crewmembers should be placed on the vessel if necessary to ensure that limits on maximum hours of work are not exceeded and/or minimum hours of rest are met, or provided by outside security forces approved by the vessel's master and Company Security Officer. As defined in the ISPS Code and incorporated herein, ''Company Security Officer'' refers to the ''person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained and for liaison with port facility security officers and the ship security officer.''
4	Attempt to execute a Declaration of Security while in a port in the Republic of Iraq.
5	Log all security actions in the vessel's security records.
6	Report actions taken to the cognizant Coast Guard Captain of the Port (COTP) prior to arrival into U.S. waters.
7	In addition, based on the findings of the Coast Guard boarding or examination, the vessel may be required to ensure that each access point to the vessel is guarded by armed, private security guards and that they have total visibility of the exterior (both landside and waterside) of the vessel while in U.S. ports. The number and position of the guards has to be acceptable to the cognizant COTP prior to the vessel's arrival.

The following countries do not maintain effective anti-terrorism measures in their ports and are therefore subject to conditions of entry: The Republic of Iraq, Cambodia, Cameroon, Comoros, Côte d'Ivoire, Equatorial Guinea, The Gambia, Guinea-Bissau, Iran, Liberia, Libya, Madagascar, Micronesia, Nauru, Nigeria, Sao Tome and Principe, Syria, Timor-Leste, Venezuela, and Yemen. The current Port Security Advisory is available at: *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/International-Domestic-Port-Assessment/.*

Dated: September 27, 2018.

Daniel B. Abel,

Deputy Commandant for Operations.

[FR Doc. 2018–22291 Filed 10–11–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7004–N–01]

60-Day Notice of Proposed Information Collection: Certification of Consistency With Promise Zone Goals and Implementation

AGENCY: Office of Field Policy and Management, HUD.

ACTION: Notice.

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

DATES: *Comments Due Date:* December 11, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Marika Bertram, Team Lead Data & Analysis, Field Policy and Management, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *marika.m.bertram@hud.gov* or telephone 202–402–6386. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Bertram.

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

A. Overview of Information Collection

Title of Information Collection: Certification of Consistency with Promise Zone Goals and Implementation.

OMB Approval Number: 2501–0033.

Type of Request: Renewal and Edits.

Description of the need for the information and proposed use: This collection is a renewal and revision that will be collecting information for preference points in certain competitive federal grants and technical assistance applications. This collection will reference the actual application collection that was approved under OMB 2501–0033 HUD and USDA designated twenty-two communities as Promise Zones between 2014 and 2016. Under the Promise Zones initiative, the federal government through interagency efforts will invest and partner with high-poverty urban, rural, and tribal communities to create jobs, increase economic activity, improve educational opportunities, leverage private investment, and reduce violent crime. Additional information about the Promise Zones initiative can be found at *www.hud.gov/promisezones,* and questions can be addressed to *promisezones@hud.gov.* The federal administrative duties pertaining to these designations shall be managed and executed by HUD (urban communities) and USDA (rural and tribal communities) for ten years from the designation dates pursuant The Promise Zone Initiative supports HUD's responsibilities under sections 2 and 3 of the HUD Act, 42 U.S.C. 3531–32, to assist the President in achieving maximum coordination of the various federal activities which have a major effect upon urban community, suburban, or metropolitan development; to develop and recommend to the President policies for fostering orderly growth and development of the Nation's urban areas; and to exercise leadership, at the direction of the President, in coordinating federal activities affecting housing and urban development.

To facilitate communication between local and federal partners, HUD proposes that Promise Zone Lead Organizations submit minimal documents to support collaboration between local and federal partners. This document will assist in communications and stakeholder engagement, both locally and nationally.

Respondents (i.e. affected public): Twenty-two Promise Zone Lead Organizations.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Certification of Consistency Form	22	10	220	.10	22	$30	$660.00
Total							660.00

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: September 18, 2018.

Holly A. Kelly,

Supervisory Management Analyst for the Office of Field Policy and Management.

[FR Doc. 2018–22244 Filed 10–11–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7005–N–17]

60-Day Notice of Proposed Information Collection: Request for Acceptance of Changes in Approved Drawings and Specifications

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

ACTION: Notice.

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

DATES: *Comments Due Date:* December 11, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Cheryl B. Walker, Director, Home Valuation Policy Division, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email at *Cheryl.B.Walker@hud.gov* or telephone 202–708–2121, x6880. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Walker.

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

A. Overview of Information Collection

Title of Information Collection: Request for Acceptance of Changes in Approved Drawings and Specifications.

OMB Approval Number: 2502–0117.

Type of Request: Revision.

Form Number: HUD–92577.

Description of the Need for the Information and Proposed Use: Contractors request approval for changes to accepted drawings and specifications of rehabilitation properties as required by homebuyers, or determined by the contractor to address previously unknown health and safety issues. Contractors submit the forms to lenders, who review them and submit them to HUD for approval.

Respondents (i.e. affected public): Business.

Estimated Number of Respondents: 15,871.

Estimated Number of Responses: 7273.

Frequency of Response: On occasion.

Average Hours per Response: 0.50.

Total Estimated Burdens: 3,637.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

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

C. Authority

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

Dated: September 28, 2018.

Vance T. Morris,

Special Assistant to the Assistant Secretary for Housing- Federal Housing Commissioner.

[FR Doc. 2018–22241 Filed 10–11–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–52]

30-Day Notice of Proposed Information Collection: New Construction Subterranean Termite Protection for New Homes

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:* November 13, 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 April 18, 2018 at 83 FR 17185.

A. Overview of Information Collection

Title of Information Collection: New Construction Subterranean Termite Protection for New Homes.

OMB Approved Number: 2502–0525.

Type of Request: Extension of currently approved collection.

Form Number: HUD NPFA–99A and HUD NPFA–99B.

Description of the need for the information and proposed use: HUD regulations at 24 CFR 200.926d(b)(3) require that the sites for HUD insured structures must be free of termite hazards. The HUD–NPCA–99–A requires the builder to certify that all required treatment for termites was performed by an authorized pest control company and further that the builder guarantees the treated area against infestation for one year. The form HUD–NPCA–99–B requires a licensed pest control company to provide to the builder a record of specific treatment information in those cases when the soil treatment method is used for prevention of subterranean termite infestation.

When applicable the HUD–NPCA–99–B must accompany the HUD–NPCA–99–A. If the requested data is not collected, new home purchasers and HUD are subject to the risk of purchasing or insuring a home that is infested by termites and would have no recourse against the builder.

Agency form numbers, if applicable: HUD NPMA–99–A and HUD NPMA–99–B.

Respondents (*i.e.* affected public): Business.

Estimated Number of Respondents: 78,000.

Estimated Number of Responses: 156,000.

Frequency of Response: 2.00.

Average Hours per Response: 0.083.

Total Estimated Annual Burden and Cost: 12,948.

B. Solicitation of Public Comment

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

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

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

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

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

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

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

Dated: October 2, 2018.

Colette Pollard,

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

[FR Doc. 2018–22243 Filed 10–11–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–FAC–2018–N102; FF07RYKD00 FXRS12610700000 189; OMB Control Number 1018–New]

Agency Information Collection Activities; In-Season Subsistence Salmon Fishery Catch and Effort Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 11, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–New in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

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 are soliciting comments on the proposed 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 the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The administration and uses of national wildlife refuges and wetland management districts are governed by the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997; the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act); and, the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 *et seq.*) (ANILCA). ANILCA provides specific authorization and guidance for the administration and management of national wildlife refuges within the State of Alaska.

The Yukon Delta National Wildlife Refuge (YDNWR) is requesting authorization to contribute to the design and implementation of subsistence fisher surveys for the purposes of informing in-season fisheries management decision-making in the Kuskokwim River subsistence salmon fishery. A program is already in place and is operated by tribal partners (the Orutsaramiut Traditional Native Council and the Kuskokwim River Inter-Tribal Fisheries Commission [KRITFC]), but the YDNWR would like to be more involved in planning and administering the surveys.

The information collected by the survey includes the times individuals left and returned from boat launches, several characteristics of their fishing gear, broad classification of where the fishing activity occurred, for how long they actively fished, and how many of each of three salmon species they harvested. When coupled with aerial boat counts performed by the YDNWR, these data can be used to obtain quantitative estimates of total fishing activity and salmon harvest occurring from short-duration subsistence harvest opportunities. The estimates are then used to inform the management strategy used jointly by the YDNWR and the KRITFC.

Title of Collection: In-Season Subsistence Salmon Fishery Catch and Effort Survey.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Subsistence fishers within the Yukon Delta National Wildlife Refuge.

Total Estimated Number of Annual Respondents: 110.

Total Estimated Number of Annual Responses: 400.

Estimated Completion Time per Response: 2 minutes.

Total Estimated Number of Annual Burden Hours: 14 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: October 9, 2018.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2018–22221 Filed 10–11–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N121; FXES11130800000–178–FF08E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before November 13, 2018.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TEXXXXXX).

- *Email: permitsr8es@fws.gov.*
- *U.S. Mail:* Daniel Marquez, Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, via phone at 760–431–9440, via email at *permitsr8es@fws.gov,* or via the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit

is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–71121C	Colton Rogers, Concord, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–037806	Bureau of Land Management, Bakersfield, California.	• Kern primrose sphinx moth (*Euproserpinus euterpe*), • Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), • Giant kangaroo rat (*Dipodomys ingens*), • Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey, mark, habitat enhancement, and use pheromones.	Capture, handle, release, insert passive integrated transponder (PIT) tags, collect vouchers, perform habitat enhancement, and use pheromones.	Renew.
TE–094318	Jessica Vinje, Escondido, California.	• Mexican flannelbush (*Fremontodendron mexicanum*), • Orcutt's spineflower (*Chorizanthe orcuttiana*), • Salt marsh bird's-beak (*Cordylanthus maritimus* ssp. *maritimus*), • Willowy monardella (*Monardella viminea*).	CA	remove/reduce to possession from lands under Federal jurisdiction.	Collect	Renew and Amend.
TE–85618B	Biological Resources Services LLC., Folsom, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Survey	Capture, handle, and release	Amend.
TE–205904	Heritage Environmental Consultants, LLC., Denver, Colorado.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA, NV, AZ, NM	Survey	Survey	Renew.
TE–93824C	Jill Coumoutso, Fontana, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*)	CA	Survey	Survey	New.
TE–101743	Daniel Edelstein, Novato, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*), • California Clapper rail (California Ridgway's r.) (*Rallus longirostris obsoletus*) (*R. obsoletus o.*).	CA	Survey	Capture, handle, and release	Renew.
TE–205609	Lawrence Kobernus, San Francisco, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*), • San Francisco garter snake (*Thamnophis sirtalis tetrataenia*),	CA	Survey	Capture, handle, and release	Renew.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
	• Callippe silverspot butterfly (*Speyeria callippe callippe*)..					
TE–054011	John Green, Riverside, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*), • Southwestern willow flycatcher (*Empidonax traillii extimus*), • Quino checkerspot butterfly (*Euphydryas editha quino*), • Yuma clapper rail (Yuma Ridgway's r.) (*Rallus longirostris yumanensis*) (*R. obsoletus* y.), • San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*).	CA, NV, AZ, TX, NM, UT, CO	Survey	Capture, handle, release, and collect vouchers.	Renew.
TE–108683	Austin Pearson, Coarsegold, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	Renew.
TE–95114C	Todd Easley, San Marcos, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Survey	Survey	New.
TE–217119	Carie Wingert, Oakhurst, California.	• Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), • Giant kangaroo rat (*Dipodomys ingens*).	CA	Survey	Capture, handle, and release	Renew.
TE–98090C	Fishbio, Oakdale, California.	• Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey	Capture, handle, and release	New.
TE–98105C	Scott Thompson, Tahoe City, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–095860	Veronica Wunderlich, Pleasant Hill, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Survey	Capture, handle, transport, and release.	Renew.
TE–052744	Shannon Hickey, Davis, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*), • California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Survey	Capture, handle, release, and collect vouchers.	Renew.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–98470C	Michael Burleson, Citrus Heights, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–837439	Guy Bruyea, Hemet, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*), • Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*).	CA	Survey	Survey	Renew.
TE–35000A	University of California, Davis, Davis, California.	• Giant kangaroo rat (*Dipodomys ingens*), • Salt marsh harvest mouse (*Reithrodontomys raviventris*).	CA	Genetics research	Capture, handle, mark, obtain genetic samples, release.	Renew and Amend.
TE–148554	Amber Heredia, Santa Ana, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA, NV, AZ, NM, UT	Survey	Survey	Renew.
TE–98536C	Stillwater Sciences, Mckinleyville, California.	• Tidewater goby (*Eucyclogobius newberryi*), • Sierra Nevada yellow-legged frog (*Rana sierrae*), • California freshwater shrimp (*Syncaris pacifica*).	CA	Survey and swab	Capture, handle, swab, and release	New.
TE–83958B	Jared Elia, Concord, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–99108C	Frank Muzio, Alameda, California.	• California tiger salamander (Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*),	CA	Survey	Capture, handle, and release	New.
TE–40090B	Roland Knapp, Mammoth Lakes, California.	• Sierra Nevada yellow-legged frog (*Rana sierrae*), • Mountain yellow-legged frog ((northern California DPS) (*Rana muscosa*)).	CA	Survey, research studies, and captive rear.	Capture, handle, take skin swabs, clip toes, insert PIT tags, collect vouchers, test and treat for disease, transport, and captive rear.	Renew and Amend.
TE–217401	Cristina Slaughter, Santa Barbara, California.	• Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey	Capture, handle, and release	Renew.
TE–142436	Eric Renfro, Torrance, California.	• Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*).	CA	Survey	Survey	Renew.
TE–99114C	Dawn Cunningham, Sacramento, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New
TE–793640	Jerry Smith, San Jose, California.	• Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey and research.	Capture, handle, collect tissue, and release.	Renew.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–039640	Kristopher Alberts, San Diego, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*), • Southwestern willow flycatcher (*Empidonax traillii extimus*), • Quino checkerspot butterfly (*Euphydryas editha quino*).	CA, NV	Survey	Capture, handle, release, and collect vouchers.	Renew and Amend.
TE–217402	Julie Love, Santa Barbara, California.	• Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey	Capture, handle, and release	Renew.
TE–34570A	San Francisco Bay Bird Observatory, Milpitas, California.	• California least tern (*Sternula antillarum browni*) (*Sterna a. browni*).	CA	Research	Float eggs and use decoys	Amend.
TE–797315	Michael Morrison, College Station, Texas.	• Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*).	CA	Surveys	Capture, handle, and release	New.
TE–98574C	River Design Group, Corvallis, Oregon.	• Lost River sucker (*Deltistes luxatus*), • Shortnose sucker (*Chasmistes brevirostris*).	CA, OR	Survey, tag, genetic research.	Capture, handle, insert PIT tags, collect tissue, and release.	New.
TE–817397	John Storrer, Santa Barbara, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Survey and collect tissue.	Capture, handle, collect tissue, and release.	Renew.
TE–02474D	Gaylene Tupen, Lincoln, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey and educational workshops.	Capture, handle, release, and collect vouchers.	New.
TE–02478D	Jennifer. Jackson, Imperial Beach, California.	• California least tern (*Sternula antillarum browni*) (*Sterna a. browni*).	CA	Nest monitoring	Nest Monitoring	New.
TE–02480D	Bargas Environmental Consulting, Sacramento, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–081298	Daniel Weinberg, Albany, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*), • California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Survey	Capture, handle, release, and collect vouchers.	Renew.
TE–02481D	Anna Godinho, Oakhurst, California.	• Fresno kangaroo rat (*Dipodomys nitratoides exilis*), • Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*).	CA	Survey	Capture, handle, and release	New.
TE–02538D	Gregory Wattley, Pittsburg, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–041668	Cleveland National Forest, San Diego, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*), • Least Bell's vireo (*Vireo belli pusillus*), • Arroyo toad (arroyo southwestern) (*Anaxyrus californicus*), • *Dodecahema leptoceras* (slender-horned spineflower), • *Allium munzii* (Munz's onion), • *Astragalus brauntonii* (Braunton's milkvetch), • *Berberis nevinii* (Nevin's barberry), • *Eryngium aristulatum* var. *parishii* (San Diego button celery), • *Poa atropurpurea* (San Bernardino bluegrass).	CA	Survey, nest monitoring, and plant collection.	Survey, nest monitoring, and plant collection.	Renew.
TE–745541	SJM Biological Consultants, Flagstaff, Arizona.	• San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*), • Stephens' kangaroo rat (*Dipodomys stephensi*), • Pacific pocket mouse (*Perognathus longimembris pacificus*), • Amargosa vole (*Microtus californicus scirpensis*), • Yuma clapper rail (Yuma Ridgway's r.) (*Rallus longirostris yumanensis*) (*R. obsoletus* y.).	CA	Survey	Capture, handle, and release	Renew.
TE–094642	Brad Shaffer, Los Angeles, California.	• California tiger salamander (Santa Barbara County Distinct Population Segment (DPS)) (*Ambystoma californiense*).	CA	Genetic research and mesocosm study.	Collect eggs, sacrifice, collect tissue, and PIT tag.	Amend.
TE–64146A	Patricia Valcarcel, San Francisco, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*), • Longhorn fairy shrimp (*Branchinecta longiantenna*), • San Diego fairy shrimp (*Branchinecta sandiegonensis*), • Riverside fairy shrimp (*Streptocephalus woottoni*), • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	Amend.
TE–797267	Triple HS, Inc., Los Gatos, California.	• Giant kangaroo rat (*Dipodomys ingens*).	CA	Habitat restoration	Capture, temporarily hold in captivity, and release.	Amend.
TE–62708B	Mary Halterman, Onyx, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Survey	Survey	Renew and Amend.
TE–53771B	Erin Bergman, La Mesa, California.	• El Segundo blue butterfly (*Euphilotes battoides allyni*).	CA	Survey	Survey	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Angela Picco,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2018–22250 Filed 10–11–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM 109072; 3411–15]

Public Land Order No. 7875; Emigrant Crevice Mineral Withdrawal; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public land order.

SUMMARY: This Public Land Order (Order) withdraws approximately 30,370 acres of National Forest System lands from location and entry under the United States mining laws for a period of 20 years, subject to valid existing rights. The lands have been and will remain open to leasing under the mineral leasing and geothermal leasing laws.

DATES: This Order takes effect on October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Kim Prill, Chief, Branch of Realty, Lands, and Renewable Energy at: Telephone: 406–896–5039, email: *kprill@blm.gov,* Bureau of Land Management, Montana/Dakotas State Office, 5001 Southgate Drive, Billings, Montana 59101. Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose of this Order is to protect and preserve the scenic integrity, important wildlife corridors, and high quality recreation values of the Emigrant and Crevice Areas located in the Custer Gallatin National Forest, Park County, Montana.

Portions of the withdrawn National Forest System lands are unsurveyed and the acres were obtained from protraction diagrams or calculated using the Geographic Information System.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws, but remain open to leasing under the mineral and geothermal leasing laws.

Principal Meridian, Montana

T. 6 S., R. 8 E.,
Secs. 34 and 35;
Sec. 36, lots 1 thru 8, W1/2NE1/4, W1/2, and SE1/4SE1/4.
T. 7 S., R. 8 E.,
Sec. 10, lot 1, N1/2, N1/2SW1/4, SE1/4SW1/4, and SE1/4;
Sec. 11, S1/2;
Sec. 12, S1/2;
Secs. 13, 14, and 15;
Protracted blocks 37 thru 41.
T. 6 S., R. 9 E.,
Sec. 31, lots 1 thru 6, NE1/4, E1/2NW1/4, NE1/4SE1/4, and W1/2SE1/4;
Sec. 32, S1/2;
Sec. 33, S1/2.
T. 7 S., R 9 E.,
Sec. 9, unsurveyed;
Sec. 10, W1/2, unsurveyed;
Secs. 16 and 17, unsurveyed;
protracted blocks 39 thru 45.
T. 8 S., R. 9 E.,
Secs. 22 thru 26, unsurveyed, those portions not within the Absaroka-Beartooth Wilderness;
protracted blocks 41 thru 46, those portions not within the Absaroka-Beartooth Wilderness;
protracted blocks 47 and 48;
protracted block 49, that portion not within the Absaroka-Beartooth Wilderness;
H.E.S. No. 856.
T. 9 S., R. 9 E.,
Secs. 1 and 2, those portions not within the Absaroka-Beartooth Wilderness;
Sec. 3, lots 1, 2, and 3, NE1/4, N1/2NW1/4, SE1/4NW1/4, E1/2SW1/4, and SE1/4;
Sec. 4, lot 2, lots 5 thru 9, lots 12 thru 15, N1/2NE1/4, and NW1/4;
Sec. 5, lots 1 thru 6, N1/2NE1/4, SW1/4NE1/4, NW1/4, and W1/2SE1/4;
Sec. 6, lot 1, lots 5 thru 12, NE1/4, and NE1/4NW1/4;
Sec. 7, lots 5 and 6, S1/2NE1/4, E1/2NW1/4, E1/2SW1/4, and SE1/4;
Sec. 8, lots 1, 4, 5, 6, 9, and 10, SW1/4NW1/4, and SW1/4, excepting Wormsbecker Boundary Adjustment Tract, Certificate of Survey No. 792BA, filed in Park County, Montana, July 22, 1985, Document No. 186782;
Sec. 9, lots 1, 3, and 4, lots 9 thru 15, and S1/2SE1/4;
Sec. 10, lots 1 and 2, N1/2, SW1/4, and N1/2SE1/4;
Sec. 11, lots 1, 2, 3, 5, and 6, N1/2NE1/4, NW1/4, N1/2SW1/4, SE1/4SW1/4, SW1/4SE1/4, those portions not within the Absaroka-Beartooth Wilderness;
Sec. 14, lots 1 thru 8, NW1/4NE1/4, SE1/4SW1/4, and W1/2SE1/4, those portions not within the Absaroka-Beartooth Wilderness;
Sec. 15, lots 1 thru 9, NW1/4, and W1/2SW1/4;
Sec. 16, lots 1 thru 5, E1/2, N1/2NW1/4, and SW1/4NW1/4;
Sec. 17, lots 2 and 3, lots 5 thru 8, SE1/4NE1/4, NW1/4NW1/4, SE1/4SW1/4, and SE1/4;
Sec. 18, lots 1 thru 6, NE1/4, El/2NW1/4, El/2SW1/4, and W1/2SE1/4;
Sec. 19, lots 1 thru 14, NE1/4NW1/4, and NE1/4SE1/4, including the bed of the Yellowstone River;
Sec. 20, lots 2 thru 5, N1/2SW1/4, and N1/2SE1/4;
Sec. 21;
Sec. 22, lots 2 thru 13, W1/2NW1/4, and NW1/4SW1/4;
Sec. 23, lots 1 thru 10, NE1/4, and N1/2SE1/4, those portions not within the Absaroka-Beartooth Wilderness;
Tracts 37, 38, and 39;
H.E.S. No. 253.

The described lands aggregate approximately 30,370 acres in Park County.

2. The following described non-Federal lands and non-Federal mineral rights are within the exterior boundaries of the Emigrant and Crevice Withdrawal. If title to these non-Federal lands or non-Federal mineral rights is subsequently acquired by the United States, the acquired lands and/or mineral rights will become subject to the terms and conditions of this Order.

Principal Meridian, Montana

T. 6 S., R. 8 E.,
M.S. No. 10643, except that portion lying northerly of the line bet. secs. 25 and 36;
M.S. No. 6079.
T. 7 S., R. 8 E.,
M.S. No. 8838, except that portion lying westerly of the line bet. secs. 9 and 10.
Tps. 6 S., Rs. 8 and 9 E.,
M.S. No. 6078.
Tps. 6 and 7 S., Rs. 9 E.,
M.S. No. 4087;
M.S. No. 4724.
T. 7 S., R. 9 E.,
M.S. No. 58;
M.S. No. 6705;
M.S. No. 6706;
M.S. No. 6707;
M.S. No. 6939;
M.S. No. 6940;
M.S. No. 6941;
M.S. No. 9015;
M.S. No. 9858;
M.S. No. 10229.
T. 9 S., R. 9 E.,
Sec. 20, lot 1 and SW1/4NW1/4;
M.S. No. 46;
M.S. No. 47;
M.S. No. 44, that portion lying northerly of the E–W center line of the SE1/4 of sec. 8;
M.S. No. 48;
M.S. No. 61;
M.S. No. 62, that portion lying northerly of the E–W center line of the SE1/4 of sec. 8;
M.S. No. 4535;
M.S. No. 4536;
M.S. No. 4537;
M.S. No. 4538;
M.S. No. 4557;
M.S. No. 4558;
M.S. No. 4559;
M.S. No. 4560;
M.S. No. 4899;
M.S. No. 4900;
M.S. No. 4901;
M.S. No. 4902;
M.S. No. 4903;
M.S. No. 4904;
M.S. No. 4905;
M.S. No. 5527;
M.S. No. 5528;
M.S. No. 5529;
M.S. No. 5531;
M.S. No. 5532;
M.S. No. 5533;
M.S. No. 5542;
M.S. No. 5573A;
M.S. No. 5573B;
M.S. No. 5581;
M.S. No. 5583;
M.S. No. 5613;
M.S. No. 5614;
M.S. No. 5627;
M.S. No. 5628;
M.S. No. 5629;
M.S. No. 5674;
M.S. No. 5675;
M.S. No. 5676;
M.S. No. 5713;
M.S. No. 5786;
M.S. No. 5819;
M.S. No. 5820;
M.S. No. 6117;
M.S. No. 6283;
M.S. No. 6284;
M.S. No. 6341;
M.S. No. 6374;
M.S. No. 6376;
M.S. No. 6377;

M.S. No. 6657;
M.S. No. 6930;
M.S. No. 6931;
M.S. No. 6999;
M.S. No. 7000;
M.S. No. 7001;
M.S. No. 7002;
M.S. No. 7003;
M.S. No. 7004;
M.S. No. 7005;
M.S. No. 7006;
M.S. No. 7007;
M.S. No. 7008;
M.S. No. 7108;
M.S. No. 8869;
M.S. No. 8876;
M.S. No. 9023;
M.S. No. 9024;
M.S. No. 9035, that portion not within the Absaroka-Beartooth Wilderness;
M.S. No. 9681;
M.S. No. 9771;
M.S. No. 9906;
M.S. No. 10774;
Wormsbecker Boundary Adjustment Tract, Certificate of Survey No. 792BA, filed in Park County, Montana, July 22, 1985, Document No. 186782.

The described non-Federal lands and non-Federal mineral rights aggregate approximately 1,668 acres.

3. The withdrawal made by this Order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 20 years from the effective date of this Order unless the withdrawal is extended by the Secretary prior to the expiration date as a result of a review conducted pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f).

Ryan K. Zinke,

Secretary of the Interior.

[FR Doc. 2018–22242 Filed 10–11–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1, RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Reclamation is publishing this notice to announce that a Federal Advisory Committee meeting of the Colorado River Basin Salinity Control Advisory Council (Council) will take place.

DATES: The Council will convene the meeting on Monday, October 29, 2018, at 4:00 p.m. and adjourn at approximately 5:00 p.m. The Council will reconvene the meeting on Tuesday, October 30, 2018, at 8:30 a.m. and adjourn the meeting at approximately 12 noon.

ADDRESSES: The meeting will be held at the New Mexico State Capitol, 490 Old Santa Fe Trail, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; email at *kjacobson@usbr.gov;* facsimile (801) 524–3847.

SUPPLEMENTARY INFORMATION: The meeting of the Council is being held under the provisions of the Federal Advisory Committee Act of 1972. The Council was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act.

Purpose of the Meeting: The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity.

Agenda: Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin States Program created by Public Law 110–246, which amended the Act.

Meeting Accessibility/Special Accommodations: The meeting is open to the public and seating is on a first-come basis. Individuals requiring special accommodations to access the public meeting should contact Mr. Kib Jacobson by email at *kjacobson@usbr.gov,* or by telephone at (801) 524–3753, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Public Disclosure of Comments: To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To allow full consideration of information by Council members, written notice must be provided to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1147; email at *kjacobson@usbr.gov;* facsimile (801) 524–3847; at least five (5) business days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: *August 23, 2018.*

Brent C Esplin,

Acting Regional Director, Upper Colorado Region.

[FR Doc. 2018–22235 Filed 10–11–18; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1092]

Certain Self-Anchoring Beverage Containers; Commission Determination To Review in Part an Initial Determination Granting Summary Determination of a Section 337 Violation; Schedule for Filing Written Submissions

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 initial determination (Order No. 15) granting summary determination that the defaulting respondents have violated section 337 in the above-captioned investigation. The Commission requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW,

Washington, DC 20436, telephone (202) 205–3012. 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 January 8, 2018, based on a complaint, as amended, filed by Complainants Alfay Designs, Inc., of Rahway, New Jersey; Mighty Mug, Inc., of Rahway, New Jersey; and Harry Zimmerman of Los Angeles, California (collectively, ''Complainants''). 83 FR 835–36 (Jan. 8, 2018). The amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain self-anchoring beverage containers by reason of infringement of certain claims of U.S. Patent Nos. 8,028,850 (''the '850 patent'') and 8,757,418 (''the '418 patent''), as well as U.S. Trademark Registration No. 4,191,803 (''the '803 trademark''). *Id.* The amended complaint further alleged that a domestic industry in the United States exists or is in the process of being established.

The notice of investigation named eight respondents: Telebrands, Corp. of Fairfield, New Jersey (''Telebrands''); HIRALIY of Guangzhou, Chin; Chekue, Shenzen Chekue Trading Co. Ltd. of Shenzhen, China; Tapcet, Guangzhou Tinghui Trade Co., Ltd. of Guangzhou, China; OTELAS, MB of Klaipeda, Lithuania; and Artiart Limited of Taipei, Taiwan (collectively, the ''Unserved Respondents''); and OUOH, Zhejiang OUOH Houseware Co., Ltd., of Wenzhou, China (''OUOH''), and DevBattles of Ternopil, Ukraine (''DevBattles''). *Id.* The notice of investigation also named the Office of Unfair Import Investigations (''OUII'') as a party to the investigation. *Id.* The Commission subsequently terminated the investigation with respect to Telebrands and the Unserved Respondents. *See* Order No. 8 (Feb. 16, 2018) (unreviewed Notice (Mar. 15, 2018)); Order No. 10 (Apr. 10, 2018) (unreviewed Notice (May 8, 2018)).

On May 3, 2018, the ALJ issued an ID (Order No. 11) finding in default the last two remaining respondents, OUOH and DevBattles (collectively, ''the defaulting respondents''). The Commission determined not to review the ID. Comm'n Notice (June 1, 2018).

On May 25, 2018, Complainants filed a motion for summary determination that the defaulting respondents have sold for importation into the United States, imported into the United States, or sold after importation certain self-anchoring beverage containers that infringe certain claims of the '850 patent in violation of section 337. The motion also requested a recommendation for entry of a general exclusion order; the motion did not request cease and desist orders directed against either defaulting respondent.

On June 6, 2018, the ALJ issued an ID (Order No. 12), granting Complainants' motion to withdraw all allegations based on the '803 trademark and the '418 patent. The Commission determined not to review the ID. Comm'n Notice (June 25, 2018).

On June 14, 2018, Complainants filed a supplement (''Supplement'') to their May 25, 2018, motion for summary determination. On the same day, OUII filed a response in support of Complainants' motion.

On August 27, 2018, the ALJ issued the subject ID granting Complainants' motion for summary determination. The ALJ found that the importation requirement is satisfied as to each defaulting respondent, that the accused products of each defaulting respondent infringe claim 1 of the '850 patent, and that Complainants satisfied the domestic industry requirement. No petitions for review of the ID were filed. The ALJ recommended issuance of a general exclusion order and the imposition of a bond in the amount of 100% of the entered value of subject products during the period of Presidential review.

Having examined the record of this investigation, including the ID, the Commission has determined to review in part the ALJ's ID granting summary determination of a section 337 violation. Specifically, the Commission has determined to review the following findings: (1) The ID's findings on infringement to correct typographical errors, namely to modify a cross-reference ''[f]or the foregoing reasons'' at page 11 of the ID to ''[f]or the following reasons'' and to modify a citation to ''Mot. Ex. 3 at Attachments 1 (OUOH) and 6 (DevBattles)'' at page 11 of the ID to ''Mot. Ex. 3 at Attachments 3 (OUOH) and 6 (DevBattles)'', and to strike the sentence at page 11 of the ID that refers to claim charts attached to the Amended Complaint (''Complainants also attached claim charts to the Amended Complaint . . . of the patent. (Compl Exh. 38 at 13–15 (OUOH), 16–18 (DevBattles).)''); (2) the ID's findings on importation, and on review, (a) affirm the ID's finding on importation as to defaulting respondent OUOH on the modified ground that Complainants have established by substantial, reliable, and probative evidence that the importation requirement of section 337 is satisfied with respect to defaulting respondent OUOH and (b) take no position on whether Complainants have established by substantial, reliable, and probative evidence the importation requirement as to defaulting respondent DevBattles; and (3) the ID's findings on the economic prong of the domestic industry, and on review, affirm the ID's finding of the existence of a domestic industry under subsection 337(a)(3)(B), and to take no position on whether a domestic industry exists under subsections 337(a)(3)(A) or (C).

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 a cease and desist order that could result in the respondent 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, Comm'n Op. at 7–10 (December 1994). In addition, if a party seeks issuance of any cease and desist orders, the written submissions should address that request in the context of recent Commission opinions, including those in *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor,* Inv. No. 337–TA–977, Comm'n Op. (Apr. 28,

2017) and *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same,* Inv. No. 337–TA–959, Comm'n Op. (Feb. 13, 2017). Specifically, if Complainants seek a cease and desist order against a defaulting respondent, the written submissions should respond to the following requests:

1. Please identify with citations to the record any information regarding commercially significant inventory in the United States as to each respondent against whom a cease and desist order is sought. If Complainants also rely on other significant domestic operations that could undercut the remedy provided by an exclusion order, please identify with citations to the record such information as to each respondent against whom a cease and desist order is sought.

2. In relation to the infringing products, please identify any information in the record, including allegations in the pleadings, that addresses the existence of any domestic inventory, any domestic operations, or any sales-related activity directed at the United States for each respondent against whom a cease and desist order is sought.

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: Parties to the investigation, 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.

Complainants and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the date that the asserted patent expires, the HTSUS numbers under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The written submissions and proposed remedial orders must be filed no later than close of business on October 22, 2018. Reply submissions must be filed no later than the close of business on October 29, 2018. 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 eight 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–1092) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary 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. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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: October 5, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–22189 Filed 10–11–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1136]

Certain Obstructive Sleep Apnea Treatment Mask Systems and Components Thereof; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 10, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Fisher & Paykel Healthcare Limited of New Zealand. Supplements were filed on September 17, 2018, September 18, 2018, and September 26, 2018. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain obstructive sleep apnea treatment mask systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,333,315 (''the '315 patent''); U.S. Patent No. 9,517,317 (''the '317 patent''); U.S. Patent No. 9,539,405 (''the '405 patent''); U.S. Patent No. 9,907,925 (''the '925 patent''); and U.S. Patent No. 9,974,914 (''the '914 patent''). The

[1] All contract personnel will sign appropriate nondisclosure agreements.

complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, as supplemented, the U.S. International Trade Commission, on October 5, 2018, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–4, 6–9, 11–15, and 17–19 of the '315 patent; claims 1–20 of the '317 patent; claims 1–20 of the '405 patent; claims 4–20 of the '925 patent; and claims 1–3, 5–8, 11–20, 22, and 25–27 of the '914 patent; and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''nasal pillow masks for Continuous Positive Airway Pressure (CPAP) treatment of obstructive sleep apnea'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Fisher & Paykel Healthcare Limited, 15 Maurice Paykel Place, East Tamaki, Auckland 2013, P.O. Box 14 348, Panmure, Auckland 1741, New Zealand.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ResMed Corp., 9001 Spectrum Center Drive, San Diego, CA 92123.

ResMed Inc., 9001 Spectrum Center Drive, San Diego, CA 92123.

ResMed Limited, 1 Elizabeth Macarthur Drive, Bella Vista NSW 2153, Australia.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be named as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 5, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–22226 Filed 10–11–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on October 1, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AEFIS, Philadelphia, PA; Drieam, Eindhoven, NETHERLANDS; Learning Experiences, Holt, MI; Smart Sparrow, San Francisco, CA; and Willo Labs, Whitetown, IN, have been added as parties to this venture.

Also, American Printing House for the Blind, Louisville, KY; Galena Park Independent School District, Houston, TX; Tennessee Board of Regents, Nashville, TN; SMART Technologies, Calgary, CANADA; Central Massachusetts Collaborative, Worcester, MA; and Accreditrust, Warren, NJ, have withdrawn as parties to this venture.

In addition, Uninett AS has changed its name to Unit—The Norwegian Directorate for ICT and Joint Services in Higher Education and Research, Trondheim, NORWAY; and Chalk & Wire Learning Assessment Inc. has changed its name to Campus Labs, Buffalo, NY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written

notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on July 23, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 13, 2018 (83 FR 40084).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2018–22248 Filed 10–11–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 9–18]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, October 25, 2018

10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

11:00 a.m.—Issuance of Proposed Decisions under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street NW, Suite 10300, Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 601 D Street NW, Suite 10300, Washington, DC 20579. Telephone: (202) 616–6975.

Brian Simkin,

Chief Counsel.

[FR Doc. 2018–22378 Filed 10–10–18; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0080]

Agency Information Collection Activities: Extension of a Currently Approved Collection: Annuity Broker Declaration Form

ACTION: 60-Day notice of information collection under review.

The Department of Justice (DOJ), Civil 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.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 11, 2018.

If you have questions concerning the collection, please contact James G. Touhey, Jr., Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044, Telephone: (202) 616–4400. 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 agencies 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:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Annuity Broker Qualification Declaration Form.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* U.S. Department of Justice, Civil Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. *Abstract:* This declaration is to be submitted annually to determine whether a broker meets the qualifications to be listed as an annuity broker pursuant to Section 111015(b) of Public Law 107–273.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 300 respondents will complete the form annually within approximately 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual burden hours to complete the certification form is 300 hours.

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: October 9, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–22261 Filed 10–11–18; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0067]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an Existing Collection in Use Rap Back Services Form (1–796)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) 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 30 days until November 13, 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 Gerry Lynn Brovey, Supervisory Information Liaison Specialist, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road; Clarksburg, WV 26306; phone: 304–625–4320 or email *glbrovey@ic.fbi.gov.* 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of an approved collection.

(2) *Title of the form/collection:* Rap Back Services Form

(3) *Agency form number:* The form number is 1–796. Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: This form is utilized by authorized agencies to enroll individuals in the Rap Back Service to ensure the submitting agency is notified when individuals in positions of trust engage in criminal conduct or individuals under the supervision of a criminal justice agency commit subsequent criminal acts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 12 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 60 total annual burden hours associated with this 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: October 9, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–22223 Filed 10–11–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 13, 2018.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Email: 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 a copy 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 (fax). [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. Petition for Modification

Docket Number: M–2018–018–C.

Petitioner: Wilson Creek Energy, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, PA 15222.

Mine: Acosta Deep Mine, MSHA I.D. No. 36–09893, located in Somerset County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to the length of trailing cable.

The petitioner states that:

(1) The Acosta Deep Mine is a room and pillar mine that utilizes continuous

mining machines and continuous haulage. The rooms off the mains or submains are driven approximately 600 feet on 52 feet by 60 feet centers. There are three producing sections. When using continuous haulage, it is necessary to add an electrical box (''D-box'') on the return side of the section so that the roof bolters have enough cable to reach the faces. The granting of this petition will eliminate the additional electrical box and will make the bolting process more efficient and thus effective. The mine utilizes 480V Fletcher Roof Ranger II roof bolters.

(2) The granting of the petition will reduce the amount of cable handling. The average mining height is 38–42 inches. Sprains and strains from cable handling are the most frequent injury at the mine.

(3) The petitioner proposes the following alternative method to be utilized:

(a) The maximum length of the 480-volt trailing cables will be 1,100 feet when using No. 2 American Wire Gauge (AWG) cables.

(b) The trailing cables for the 480-volt Fletcher Roof Ranger II roof bolters will not be smaller than No. 2 AWG cable.

(c) All circuit breakers used to protect the No. 2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 700 amperes. The trip setting of these circuit breakers will be sealed to ensure that the setting on these circuit breakers cannot be changed, and these breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the No. 2 AWG cables.

(d) Replacement circuit breakers and/or instantaneous trip units used to protect the No. 2 AWG trailing cables will be calibrated to trip at 700 amperes, and this setting will be sealed.

(e) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(f) During each production day, the No. 2 AWG cables and the associated circuit breakers will be examined in accordance with all 30 CFR provisions.

(g) Permanent warning labels will be installed and maintained on the load center identifying the location of each short-circuit protective device. These labels will warn miners not to change or alter the settings of these devices.

(h) If the affected trailing cables are damaged in any way during the shift, the cable will be de-energized and repairs made.

(i) This alternative method will not be implemented until all miners who have been designated to operate the roof bolters, or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received the proper training.

(j) Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These 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. 3(c). The training will include the following:

(i) The hazards of setting short-circuit interrupting device(s) too high to adequately protect the trailing cables;

(ii) How to verify that the circuit interrupting devices(s) protecting the trailing cable(s) are properly set and maintained;

(iii) Mining methods and operating procedures that will protect the trailing cables against damage; and

(iv) The proper procedure for examining the trailing cables to ensure that the cable(s) are in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, nicks, and abrasions.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the existing standard.

Roslyn B. Fontaine,

Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2018–22181 Filed 10–11–18; 8:45 am]

BILLING CODE 4520–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[18–076]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

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

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Gatrie Johnson, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001 or *Gatrie.Johnson@NASA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gatrie Johnson, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *gatrie.johnson@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The information submitted by the public is a license application for those companies and individuals who wish to obtain a patent license for a NASA patented technology. Information needed for the license application in ATLAS may include supporting documentation such as a certificate of incorporation, a financial statement, a business and/or commercialization plan, a projected revenue/royalty spreadsheet and a company balance sheet. At a minimum, all license applicants must submit a satisfactory plan for the development and/or marketing of an invention. The collected information is used by NASA to ensure that companies that seek to commercialize NASA technologies have a solid business plan for bringing the technology to market.

II. Method of Collection

NASA is participating in Federal efforts to extend the use of information technology to more Government processes via internet. NASA encourages recipients to use the latest computer technology in preparing documentation. Companies and individuals submit license applications by completing the automated form by way of the Automated Technology Licensing Application System (ATLAS). NASA requests all license applications to be submitted via electronic means.

III. Data

Title: Automated Technology Licensing Application System (ATLAS).

OMB Number: 2700–XXXX.

Type of review: New.

Affected Public: Public and companies.

Estimated Number of Respondents: 360.

Estimated Time per Response: 8.0 hours.

Estimated Total Annual Burden Hours: 2,880 hours.

Estimated Total Annual Cost: $169,920.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Gatrie Johnson,

NASA PRA Clearance Officer.

[FR Doc. 2018–22273 Filed 10–11–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[18–074]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

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

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Gatrie Johnson, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001 or *Gatrie.Johnson@NASA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Gatrie Johnson, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW, Mail Code JF000, Washington, DC 20546, or *Gatrie.Johnson@NASA.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Since the mid-1960s, neutral buoyancy has been an invaluable tool for testing procedures, developing hardware, and training astronauts. Neutrally buoyant conditions sufficiently simulate reduced gravity conditions, comparable to the environmental challenges of space. The Neutral Buoyancy Laboratory (NBL) at NASA Johnson Space Center (JSC) provides opportunities for astronauts to practice future on-orbit procedures, such as extravehicular activities (EVA), and to work through simulation exercises to solve problems encountered on-orbit. NASA hires individuals with demonstrated diving experience as NBL Working Divers in teams comprised of four divers; two safety divers, one utility diver, and one cameraman to assist astronauts practice various tasks encountered in space.

NASA allows guest divers, typically non-federal photographers representing the media, opportunities to engage in the NBL diving experience. To participate, guest divers must present a dive physical, completed within one year of the targeted diving opportunity, for review by the NASA Buoyancy Lab Dive Physician.

If the guest diver does not have a current U.S. Navy, Association of Diving Contractors (ADC), or current British standard for commercial diving physical, they are required to complete a medical examination, performed by a certified Diving Medical Examiner. The results of the physical will be documented by on the *JSC Form 1830/ Report of Medical Examination for Applicant* and presented for review prior to participating in diving activities conducted at the JSC Neutral Buoyancy Lab. The associated cost for guest divers to complete the medical examination will vary, typically based on the guest diver's insurance.

A completed JSC Form 1830/Report of Medical Examination, with test results attached as applicable, must be submitted to enable NASA to validate an individual's physical ability to dive in the NBL at NASA Johnson Space Center. The completed JSC Form 1830 will be protected in accordance with the Privacy Act. Records will be retained in accordance with NASA Records Retention Schedules.

II. Method of Collection

Paper.

III. Data

Title: JSC Neutral Buoyancy Lab Guest Diver Physical Exam Results.

OMB Number: 2700–XXXX.

Type of review: Existing collection in use without an OMB Control Number.

Affected Public: Individuals.

Estimated Number of Respondents: 175.

Estimated Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 175.

Estimated Total Annual Cost to Respondents: $6,125.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Gatrie Johnson,

NASA PRA Clearance Officer.

[FR Doc. 2018–22271 Filed 10–11–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[18–075]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Gatrie Johnson, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection instrument(s) and instructions should be directed to Gatrie Johnson, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *Gatrie.Johnson@NASA.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Contractor Financial Management Reporting System is the basic financial medium for contractor reporting of estimated and incurred costs, providing essential data for projecting costs and hours to ensure that contractor performance is realistically planned and supported by dollar and labor resources. The data provided by these reports is an integral part of the Agency's accrual accounting and cost based budgeting system. Respondents are reimbursed for associated cost to provide the information, per their negotiated contract price and associated terms of the contract. There are no ''total capital and start-up'' or ''total operation and maintenance and purchase of services'' costs associated since NASA policy requires that data reported is generated from the contractors' existing system. The contractors' internal management system shall be relied upon to the maximum extent possible. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

II. Methods of Collection

NASA collects this information electronically and that is the preferred manner, however information may also be collected via mail or fax.

III. Data

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700–0003.

Type of review: Renewal of a previously approved collection.

Affected Public: Business or other for profit, not-for-profit institutions.

Average Expected Annual Number of Activities: 500.

Average number of Responses per Activity: 12.

Annual Responses: 6,000.

Frequency of Responses: Monthly.

Average Minutes per Response: 540.

Burden Hours: 54,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collection has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Gatrie Johnson,

NASA PRA Clearance Officer.

[FR Doc. 2018–22272 Filed 10–11–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Astronomy and Astrophysics Advisory Committee (#13883) (Teleconference).

Date and Time: November 6, 2018; 12:00 p.m.–1:00 p.m. EST.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, Room W9138 (Teleconference).

Type of Meeting: Open.

Attendance information for the meeting will be forthcoming on the website: *https://www.nsf.gov/mps/ast/aaac.jsp.*

Contact Person: Dr. Christopher Davis, Program Director, Division of Astronomical Sciences, Suite W 9136, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–4910.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: The AAAC will receive a preliminary report from a committee set up to consider the roles of the Gemini Observatory, the Southern Astrophysical Research Telescope (SOAR), the Blanco Telescope, and other federally-funded ground-based optical-infrared facilities in the era of Multi-Messenger and Time Domain astronomy, and on the use of these observatories to advance Dark Energy science.

Dated: October 9, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–22220 Filed 10–11–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 15, 22, 29, November 5, 12, 19, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 15, 2018

There are no meetings scheduled for the week of October 15, 2018.

Week of October 22, 2018—Tentative

Thursday, October 25, 2018

9:00 a.m. Briefing on Digital Instrumentation and Control (Public); (Contact: Jason Paige: 301–415–1474).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of October 29, 2018—Tentative

Monday, October 29, 2018

9:00 a.m. Transformation at the NRC (Public); (Contact: Kevin Williams: 301–415–1611).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of November 5, 2018—Tentative

There are no meetings scheduled for the week of November 5, 2018.

Week of November 12, 2018—Tentative

There are no meetings scheduled for the week of November 12, 2018.

Week of November 19, 2018—Tentative

There are no meetings scheduled for the week of November 19, 2018.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or you may email *Patricia.Jimenez@nrc.gov* or *Wendy.Moore@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of October 2018.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2018–22406 Filed 10–10–18; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0145]

Regulatory Guide 1.206—Applications for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance and withdrawal of interim staff guidance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG), ''Applications for Nuclear Power Plants.'' This update of RG 1.206, ''Combined License Applications for Nuclear Power Plants (LWR Edition),'' dated June 2007, provides updated guidance for prospective applicants regarding the format and content of applications for new nuclear power plants. The revision reflects the lessons learned regarding the review of nuclear power plant applications since 2007. Two significant changes include: (1) The addition of new guidance to applicants for standard design certifications (DCs) and early site permits (ESPs), and (2) the removal of detailed technical information for a combined license (COL) that was highly redundant with information in NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition'' (SRP). The NRC is additionally withdrawing four interim staff guidance documents due to the incorporation of their guidance into RG 1.206, Revision 1.

DATES: Revision 1 to RG 1.206 is available on October 12, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0145 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0145. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS Accession No. for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Revision 1 to RG 1.206 and the regulatory analysis may be found in ADAMS under Accession Nos. ML18131A181 and ML17013A624, respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Barbara Hayes, Office of New Reactors, 301–415–7442, email: *Barbara.Hayes@nrc.gov,* who is a member of the staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses. Revision 1 of RG 1.206 was issued with a temporary identification of Draft Regulatory Guide (DG)–1325.

RG 1.206, Revision 1, entitled ''Applications for Nuclear Power Plants,'' provides revised guidance for prospective applicants regarding the format and content of applications for new nuclear power plants under the provisions in part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

RG 1.206, Revision 1, reflects changes based on lessons learned regarding the review of nuclear power plant DC, ESP, and COL applications under 10 CFR part 52, since the initial issuance of RG 1.206 in 2007. The scope of the revision has been expanded beyond COL applications to more explicitly address the current application process related to applications for DCs, ESPs, and limited work authorizations and the title has been changed accordingly. It provides more integrated guidance regarding the overall format and content for COL, DC, and ESP applications and additionally reflects the NRC staff's position that, although the guidance therein is intended for applicability to power reactors with light-water reactor (LWR) technology, it will be generally applicable to other types of power reactors (*e.g.,* non-LWRs).

RG 1.206, Revision 1, also satisfies the two remaining action items from the NRC's April 2013, Lessons Learned Report (ADAMS Accession No. ML13059A240) by (1) revising RG 1.206 to reflect lessons learned and (2) incorporating DC/COL ISG11, ''Finalizing Licensing Basis Information,'' (ADAMS Accession No. ML092890623) in the revised RG 1.206. This revision also reflects the removal of detailed technical information on COL Safety Analysis Report content relative to the 2007 version of RG 1.206 that was highly redundant with information that is provided and maintained in the SRP. Under 10 CFR 52.17(a)(1)(xii), 10 CFR 52.47(a)(9), and 10 CFR 52.79(a)(41),

applicants for ESP, DC and COL are respectively required to document an evaluation against applicable sections of the SRP and describe differences in specific information provided in the SRP including measures given in the SRP acceptance criteria. This requirement effectively provides applicants more current and comprehensive information related to detailed COL safety analysis report technical content and methods or approaches that the staff previously has found acceptable for meeting NRC requirements than what is available in RG 1.206, Rev. 0.

The guidance in RG 1.206, Revision 1, is divided into two parts: Section C.1 provides guidance for the organization, content, and format of an application under 10 CFR part 52; and Section C.2 contains information and guidance on a number of application regulatory topics related to the preparation, submittal, acceptance, and review of applications. The application regulatory topics include updated guidance that will allow the withdrawal of interim staff guidance. The NRC staff withdraws the following four documents:

- DC/COL–ISG–011, ''Interim Staff Guidance Finalizing Licensing Basis Information'' (ADAMS Accession No. ML092890623),
- ESP/DC/COL–ISG–015, ''Interim Staff Guidance on Post Combined License Commitments'' (ADAMS Accession No. ML091671355),
- COL/ESP–ISG–04, ''Interim Staff Guidance on the Definition of Construction and on Limited Work Authorizations'' (ADAMS Accession No. ML082970729), and
- DC/COL ISG–08, ''Final Interim Staff Guidance Necessary Content of Plant-Specific Technical Specifications When a Combined License is Issued'' (ADAMS Accession No. ML083310259).

In September 2014, as part of its periodic review of related guidance in RG 1.70, Revision 3 (ADAMS Accession No. ML14272A331), ''Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants (LWR),'' the staff recommended the withdrawal of RG 1.70 once information relevant to the licensing of nuclear power plants under 10 CFR part 50 is included in an update to RG 1.206. RG 1.70 is used by the operating fleet. As such, the NRC staff will not withdraw RG 1.70 but if information relevant to the licensing of nuclear power plants under 10 CFR part 50 is included in a future update to RG 1.70 or another guidance document, the staff may set a date beyond which RG 1.70 should no longer be referenced or used as guidance for licensing actions. The additional scope related to 10 CFR part 50 construction permits and operating licenses is not included in the current revision of RG 1.206 and RG 1.70 has not been withdrawn.

The technical application guidance for a safety analysis report that was previously included in RG 1.206, Revision 0, is being updated to reflect lessons learned and will be developed into interim staff guidance (ISG), a NUREG, or other knowledge management document. The document is expected to be useful to both applicants and to staff working on future updates to the SRP, however, direct incorporation of applicant guidance in the SRP is not expected.

II. Additional Information

The NRC published a notice of the availability of DG–1325 in the **Federal Register** on June 20, 2017, Volume 82, page 28101, for a 90-day public comment period. The public comment period closed on September 18, 2017. Public comments on DG–1325 and the staff responses to the public comments are available in ADAMS under Accession No. ML18129A197.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

RG 1.206, Revision 1, provides guidance for applicants regarding the format and content of applications for new ESPs, DCs, and COLs under 10 CFR part 52. Issuance of RG 1.206, Revision 1, does not constitute backfitting under 10 CFR part 50 and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this RG, the NRC has no current intention to impose the RG on current holders of ESPs or COLs or a DC applicant under 10 CFR part 52.

RG 1.206, Revision 1, can be applied to applications for 10 CFR part 52 ESPs, COLs, and DCs. Such action does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52, with certain exclusions discussed below, were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit), an NRC regulatory approval (*e.g.,* a design certification rule), or both, with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in RG 1.206, Revision 1, in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in RG 1.206, Revision 1, in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 9th day of October 2018.

For the Nuclear Regulatory Commission.

Jennivine K. Rankin,

Acting Chief, Licensing Branch 3, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2018–22262 Filed 10–11–18; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Reportable Events; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information under PBGC's regulation on Reportable Events and Certain Other Notification Requirements with modifications. This notice informs the public of PBGC's request and solicits public comment on the collection.

DATES: Comments must be submitted by November 13, 2018.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_submission@omb.eop.gov* or by fax to (202) 395–6974.

A copy of the request will be posted on PBGC's website at *https://*

www.pbgc.gov/prac/laws-and-regulations/information-collections-under-omb-review. It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, 1200 K Street NW, Washington, DC 20005–4026, faxing a request to 202–326–4042, or calling 202–326–4040 during normal business hours (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040). The Disclosure Division will email, fax, or mail the information to you, as you request.

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs (*cibinic.stephanie@pbgc.gov;* 202–326–4400, extension 6352), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026. TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, extension 6352.

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and employer events to PBGC. The reporting requirements give PBGC notice of events that may indicate plan or employer financial problems. PBGC uses the information provided in determining what, if any, action it needs to take. For example, PBGC might need to institute proceedings to terminate a plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in PBGC's losses.

The provisions of section 4043 of ERISA have been implemented in PBGC's regulation on Reportable Events and Certain Other Notification Requirements (29 CFR part 4043). Subparts B and C of the regulation deal with reportable events.

PBGC has issued Forms 10 and 10-Advance and related instructions under subparts B and C (approved under OMB control number 1212–0013). OMB approval of this collection of information expires November 30, 2018. PBGC is requesting that OMB extend its approval for another three years, with modifications. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC is proposing in this renewal request that all reportable events filings include controlled group information, company financial statements, and the plan's actuarial valuation report. Currently there are five reportable events where some or all of that information isn't required. All three types of information would be added to two of these events (''Active Participant Reduction'' and ''Distribution to a Substantial Owner''). One type of information would be added to two events (''Transfer of Benefit Liabilities'' and ''Change in Contributing Sponsor or Controlled Group''), and two types to one event (''Extraordinary Dividend or Stock Redemption''). These reporting requirements give PBGC notice of events that may indicate plan or employer financial problems. The additional information is needed to help PBGC determine a sponsor's ability to continue to maintain a pension plan.

PBGC estimates that requiring this information will add 30 minutes to approximately 30 percent of the 568 reportable events notices it expects to receive in a year under subpart B of the reportable events regulation using Form 10 (out of approximately 590 that includes notices under subpart C using the Form 10-Advance). PBGC further estimates that the total average annual burden of this collection of information is 1,855 hours and $439,500.

Section 303(k) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 430(k) of the Internal Revenue Code of 1986 (Code) impose a lien in favor of an underfunded single-employer plan that is covered by PBGC's termination insurance program if (1) any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funding target attainment percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons that are liable for required contributions (*i.e.,* a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. ERISA and the Code require persons that fail to make payments to notify PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related instructions implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR 4043.81 (Subpart D of PBGC's regulation on Reportable Events and Other Notification Requirements, 29 CFR part 4043).

OMB has approved this collection of information under OMB control number 1212–0041, which expires November 30, 2018. PBGC is requesting that OMB extend its approval for another three years, with minor modifications. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that it will receive 100 Form 200 filings per year and that the average annual burden of this collection of information is 100 hours and $72,500.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–22229 Filed 10–11–18; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–2 and CP2019–2]

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 negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 16, 2018.

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 3007.301.[1]

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).:* MC2019–2 and CP2019–2; *Filing Title:* USPS Request to Add Priority Mail Contract 467 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 5, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* October 16, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–22247 Filed 10–11–18; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

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 required notice:* October 12, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth 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 October 5, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 467 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–2, CP2019–2.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–22211 Filed 10–11–18; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84375; File No. SR–ICEEU–2018–012)

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Intraday Margining

October 5, 2018.

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 September 24, 2018, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I and II below, which Items have been prepared by ICE Clear Europe. On October 4, 2018, ICE Clear Europe filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes to amend its Finance Procedures and certain related policies to expand the hours covered by its intraday margining process and make certain related changes to the intraday margining process and process for deposit of cash balances.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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 III below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to amend its intraday risk management processes for certain F&O client and house accounts to extend the intraday margining hours (which currently run from 9:00 a.m.–6:00 p.m.) to 7:30 a.m.–8:00 p.m. (with a payment deadline of 9:00 p.m.), London time, to cover the active portions of the trading day in relevant F&O contracts.[4]

ICE Clear Europe is adopting these amendments to facilitate compliance with margin requirements under European Union regulations and related implementing legislation and technical

[3] Amendment No. 1 added an additional confidential exhibit to the filing.

[4] Capitalized terms used herein but not otherwise defined have the meaning set forth in the ICE Clear Europe Clearing Rules, which are *available at https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Clearing_Rules.pdf.*

standards applicable to it as an authorized central counterparty under the European Market Infrastructure Regulation (EMIR).[5]

These amendments will principally affect F&O energy contracts cleared by ICE Clear Europe. Specifically, the extended margining hours and updated materiality threshold changes will apply to all gross margined client accounts (*i.e.,* those client accounts margined on a ''gross'' basis using a minimum one business day margin period of risk (''MPOR'')) [6] and F&O house accounts.

ICE Clear Europe is also amending certain policies relating to the deposit of uninvested cash margin with banks in light of potential increases in cash balances arising from the above changes in intraday margining, consistent with requirements under EMIR. (These amendments to the investment policies may apply to all product categories.)

Finance Procedures

As part of these changes, ICE Clear Europe is proposing to amend Parts 5 and 6 of the Finance Procedures to address intraday margining procedures and certain other matters. Paragraph 5.5 is amended to clarify the circumstances in which the Clearing House would invoke a contingency method for transfer of margin, which would occur if an Approved Financial Institution or the Clearing House itself experiences a failure in its ability to send or receive SWIFT messages. Paragraph 6.1(i) is amended to provide that intraday margin calls for F&O Contracts can be made between 7:30 and 20:00 London time. (The existing period for intraday margin calls for other (*i.e.,* CDS) Contracts remains unchanged at from 9:00 to 19:00 London time.) Where a contingency method applies under paragraph 5.5, intraday margin calls can be made up to 21:00 London time. The amendments also clarify that all intraday margin calls within these hours must be met within 60 minutes of notification by the Clearing House. Margin calls made outside of these hours must be met by the later of (x) within 60 minutes after notification, if any settlement system used by the Clearing House for the relevant currency is open at the time, or (y) within 60 minutes after the time at which such settlement system becomes open for business following the notification of the margin call by the Clearing House.

Corresponding changes are also made to the table following Part 5 of the Finance Procedures. A row has been inserted stating the timing for intraday margin instructions, as discussed above. Corresponding changes are also being made to the existing rows relating to routine end-of-day instructions, routine end-of-day instructions for financials & softs contracts that settle in JPY only and the revised 21:00 London time cut-off time for intraday instructions in the event of a contingency.

Cash Investment Policies

Because of the possibility that it will hold additional cash balances as a result of the extended margining hours discussed above (since it may be difficult to invest such balances if received later in the day), ICE Clear Europe is proposing to amend the Investment Management Policy and adopt a new set of Unsecured Credit Limits Procedures. Certain other updates and clarifications are being made to the Investment Management Policy as well.

In general, the changes to the Investment Management Policy will permit the Clearing House to hold additional uninvested balances, by eliminating the current fixed dollar limits and replacing them with the new Unsecured Credit Limits Procedures, which provide more flexible allocation guidelines based on the capital of the deposit bank and other factors. The amendments remain consistent with the requirements under EMIR that the Clearing House maintain at least 95% of its cash in qualifying investments on average during each calendar month, such that deposits in banks will be limited to the remaining 5% on average.[7]

The Investment Management Policy has also been revised to distinguish more clearly between central bank deposits and commercial bank deposits, both of which are authorized for deposit of cash. For commercial bank deposits, the $50 million per counterparty bank limit has been removed and replaced with the Unsecured Credit Limits Procedures, as discussed below. The 5% limit on investments in bank obligations in a 30-day period has been revised to refer to an average level over a calendar month, consistent with the EMIR limitations.

Certain clarifications (unrelated to the extended margin hours) are being made to the limits on investments in sovereign obligations and central bank deposits. For sovereign obligations, for EUR denominated investments, no more than 15% of the total EUR balance of the investment portfolio must be invested in sovereign obligations of a single issuer; and no more than 20% of the total balance of the investment portfolio per currency may be invested in a single issue of a sovereign issuer. Pursuant to the proposed amendments, there is no limitation on maturity for central bank obligations and central bank deposits. The amended policy lists the Dutch National Bank, Bank of England and Federal Reserve as acceptable central banks for this purpose.

The proposed amendments also update the policy review section to remove certain details, clarify the procedures for escalation of defined risk management thresholds triggers and provide that the policy will be reviewed in accordance with internal governance processes and regulatory requirements. ICE Clear Europe does not anticipate that these amendments will substantively change its process for policy review at this time, but the amendments will facilitate consolidation and harmonization of internal governance processes across various Clearing House policies.

ICE Clear Europe is further proposing various clarifications and updates throughout the Investment Management Policy including to the description of the board risk policy and related management thresholds and the objectives of the counterparty rating system. References to the Clearing Risk and Finance departments have been updated throughout the document.

The Clearing House is adopting the new Unsecured Credit Limits Procedures, which establish a limit methodology for determining the amount of cash that may be placed in an unsecured deposit with a particular bank. The procedures establish basic requirements for any deposit bank as to regulation and credit rating (with the possibility of an exception where determined appropriate by the executive risk committee). For each qualifying institution, a limit will be established at 3% of the entity's capital minus other exposures vis-a-vis ICE Clear Europe or

[5] The amendments principally address requirements under Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties, as amended by Commission Delegated Regulation (EU) 2016/822 of 21 April 2016 as regards the time horizons for the liquidation period to be considered for the different classes of financial instruments (as so amended, ''RTS 153/2013''). Specifically, Article 26(1)(c) of RTS 153/2013 requires ICE Clear Europe, among other matters, to be in a position to issue and collect margin calls on at least an hourly basis during the active trading day for futures products that are gross-margined using a one business day margin period of risk.

[6] Contracts using a one-day MPOR are generally F&O energy contracts. Other F&O Contracts using a 2 (or more) business day MPOR, and CDS Contracts (using a 5 business day MPOR) are not subject to the hourly intraday margin requirement under Article 26(1)(c) of RTS 153/2013.

[7] Article 45, RTS 153/2013.

if the entity relies on a parent guaranty, 80% of the amount guaranteed thereunder. (The 3% limit is based on the Clearing House's credit judgment as to the appropriate level of unsecured risk to take from a bank counterparty.) The limit is subject to a minimum level of USD 50 million (or a lesser level determined by the Clearing House) and a maximum level of USD 200 million. ''Other exposures'' for this purpose include uncollateralized stress losses or exposures arising from other financial services provided by ICE Clear Europe to the institution.[8] The methodology also provides for ongoing monitoring of deposit banks for purposes of updating limits as necessary, and addresses governance and exception handling.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act [9] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[10] In particular, Section 17A(b)(3)(F) of the Act [11] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The amendments will facilitate the management of intraday risk faced by the Clearing House for certain F&O Contracts, by extending the daily hours in which the Clearing House may call for intraday margin. These changes will in turn promote the prompt and accurate clearance and settlement of transactions through the Clearing House. The changes will also enhance the Clearing House's procedures for investment of cash received by it, in recognition that it may receive higher cash balances as a result of additional intraday calls for margining. The enhanced procedures provide new guidelines for allocating deposits across different banks based on their capitalization and other factors. In ICE Clear Europe's view, these changes will enhance the safeguarding of funds in the custody of the Clearing House or over which it has control. ICE Clear Europe also notes that the amendments are intended to facilitate compliance with certain specific requirements under EMIR, and thereby are consistent with the public interest as it applies to the operation of the Clearing House as an authorized central counterparty under European Union regulations.

Further, the amendments are consistent with requirements of Rule 17Ad–22 [12] regarding margin and credit risk management. Rule 17Ad–22(b)(1) and (2) [13] in particular require that ICE Clear Europe measure its credit exposure at least once per day and use margin requirements to limit its exposures to participants under normal market conditions. Consistent with these requirements, the proposed amendments require the Clearing House to measure its intraday credit exposures during additional hours and to collect margin if appropriate, reducing its credit risk to Clearing Members. The proposed amendments are also consistent with Rule 17Ad–22(e)(4)(i) [14], as the additional ability to conduct intraday margining will help the Clearing House maintain sufficient financial resources to cover its credit exposures to Clearing Members. The enhancements to the margin system are further consistent with the requirements to maintain margin levels to cover potential losses from participants pursuant to Rule 17Ad–22(e)(6)(i)–(iii).[15]

ICE Clear Europe's amendments to the Investment Management Policy and adoption of the Unsecured Credit Limit Procedures to tailor deposit limits to the particular characteristics of deposit banks is consistent with Rule 17Ad–22(e)(9) [16], as it will mitigate the credit and liquidity risk arising from conducting its money settlements in commercial bank money.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to facilitate compliance with European Union requirements applicable to intraday margin requirements and to extend the hours covered by its intraday risk management process. The amendments will affect all F&O Clearing Members that trade contracts in the relevant categories. Although the amendments could impose certain additional costs on Clearing Members, as a result of additional intraday margin calls, which may have financing and liquidity implications for F&O Clearing Members, these result from the requirements imposed by EU regulations, and in any case reflect the risks presented by the trading activities of the F&O Clearing Members. Furthermore, any such increased margin requirements will result in risk management benefits for the Clearing House, through improved ability to address risks throughout the trading day, consistent with the goals of the relevant EU regulations and also in

[8] ICE Clear Europe contemplates a specific exception for Euroclear Bank SA/NV, in light of the particular function of that entity as a central securities depository and the accompanying limitations on its business that would allow a limit of USD 200 million notwithstanding that 3% of its capital would be a lower figure.

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 240.17Ad–22.

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22.

[13] 17 CFR 240.17Ad–22(b)(1) and (2). The rule states that: [a] Registered clearing agency that performs central counterparty services shall establish, implement, maintain and enforce written policies and procedures reasonably designed to:

(1) Measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.

(2) Use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.''

[14] 17 CFR 240.17Ad–22(e)(4)(i). The rule states that: ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (4) Effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by: (i) Maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence;''

[15] 17 CFR 240.17Ad–22(e)(6)(i)–(iii). The rule states that: ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (6) Cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum: (i) Considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market; (ii) Marks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances; (iii) Calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default;''

[16] 17 CFR 240.17Ad–22(e)(9). The rule states that: ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (9) Conduct its money settlements in central bank money, where available and determined to be practical by the board of directors of the covered clearing agency, and minimize and manage credit and liquidity risk arising from conducting its money settlements in commercial bank money if central bank money is not used by the covered clearing agency.''

furtherance of the risk management requirements of the Act. In light of these considerations, ICE Clear Europe does not believe the amendments will adversely affect competition among clearing members, the market for clearing services generally or access to clearing in cleared products by clearing members or other market participants. ICE Clear Europe believes that any impact on competition is appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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–ICEEU–2018–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICEEU–2018–012. 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, security-based swap submission or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.* 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–ICEEU–2018–012 and should be submitted on or before November 2, 2018.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[17] For the reasons given below, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act[18] and Rules 17Ad–22(e)(6)(ii) and 17Ad–22(e)(16) thereunder.[19]

(A) Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and, in general, to protect investors and the public interest.

(a) Finance Procedures

As discussed above, the proposed rule change, as modified by Amendment No. 1, would amend ICE Clear Europe's Finance Procedures to extend the period for intraday margin calls for F&O Contracts to cover the active portions of the trading day for such F&O contracts (*i.e.,* from 7:30 and 20:00 London time) and to require clearing participants to satisfy margin calls during these hours within 60 minutes of notification by ICE Clear Europe.[20] The Commission believes that this aspect of the proposed rule change should expand ICE Clear Europe's ability to call additional intraday margin, as necessary, by extending the window during which ICE Clear Europe may call such margin. In addition, as discussed above, the proposed rule change would provide that, for margin calls outside of these hours, clearing participants would be required to meet margin calls by the later of (x) within 60 minutes after notification, if any settlement system used by ICE Clear Europe for the relevant currency is open at the time, or (y) within 60 minutes after the time at which such settlement system becomes open for business following the notification of the margin call. The Commission believes that these provisions should help ensure that ICE Clear Europe collects intraday margin on a timely basis by setting standard specified time periods in which clearing participants must meet margin calls. Thus, the Commission believes that these aspects of the proposed rule change should enable ICE Clear Europe to collect additional intraday margin as necessary to cover the risks related to the relevant F&O contracts.

The Commission believes that the ability of ICE Clear Europe to collect intraday margin and have such margin available to support ICE Clear Europe's ability to manage financial risk exposure that may arise in the course of its ongoing clearance and settlement activities should, in turn, help promote the prompt and accurate clearance and settlement of securities transactions, derivative agreements, contracts, and transactions. Similarly, the proposed rule change should enhance ICE Clear Europe's ability to help assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible because intraday margin collections will increase the overall amount of financial resources ICE Clear Europe maintains to address potential loss exposures that could arise from a Clearing Member default or other stressed market conditions. Finally, for both of these reasons, the Commission

[17] 15 U.S.C. 78s(b)(2)(C).

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(e)(6)(ii) and (e)(16).

[20] The Commission understands that, pursuant to EMIR requirements, ICE Clear Europe must be in a position to issue and collect margin calls on at least an hourly basis during the active trading day for futures products that are gross-margined using a one business day margin period of risk. *See supra* note 5.

believes the proposed rule change, as modified by Amendment No. 1, is consistent with protecting investors and the public interest.

(b) Investment Management Policy

The proposed rule change, as modified by Amendment No. 1, would also amend the Investment Management Policy to address potential additional cash balances that could accrue as a result of the additional margin collected during the extended margining hours discussed above. Specifically, these changes include: (i) With respect to sovereign obligations, providing that for EUR denominated investments, no more than 15% of the total EUR balance of the investment portfolio must be invested in sovereign obligations of a single issuer, and no more than 20% of the total balance of the investment portfolio per currency may be invested in a single issue of a sovereign issuer; (ii) with respect to central bank deposits, removing the limitation on maturity for central bank obligations and central bank deposits and identifying the Dutch National Bank, Bank of England, and Federal Reserve as acceptable central banks for that purpose; and (iii) with respect to commercial bank deposits, removing the $50 million per counterparty bank limit, replacing it with the Unsecured Credit Limits Procedures, including the regulation and credit rating requirements for deposit banks and the revised limits for each qualifying institution, and revising the 5% limit on investments in bank obligations in a 30-day period to refer to an average level over a calendar month.

With respect to the changes regarding investments in sovereign obligations, the Commission believes that these changes provide reasonable limitations on ICE Clear Europe's investment portfolio that should help ensure that it is not overly concentrated in securities of a single sovereign issuer or in a single issue of a sovereign issuer. With respect to the changes regarding central bank deposits, the Commission believes that the proposed rule change should facilitate ICE Clear Europe's use of central bank deposits, which should, in turn, have minimal credit, market, and liquidity risks. With respect to the changes regarding commercial bank deposits, the Commission believes the Unsecured Credit Limits Procedures as they relate to the qualifications and ongoing monitoring of deposit banks should help ICE Clear Europe ensure that the banks in which it holds deposits are creditworthy and subject to adequate regulatory oversight. The Commission further believes that the revised limitation methodology in the Unsecured Credit Limits Procedures should help ICE Clear Europe to ensure that its deposits do not present an outsize risk to any particular deposit bank.

Taken together, the Commission believes that these changes to the Investment Management Policy should help assure the safeguarding of securities and funds in ICE Clear Europe's custody and control, including any additional cash collected as intraday margin resulting from the changes described above,[21] which, in turn, helps promote the prompt and accurate clearance and settlement of securities transactions by ICE Clear Europe. Likewise, the safeguarding of securities and funds in ICE Clear Europe's control would further the protection of investors and the public interest by ensuring that ICE Clear Europe has appropriate funds available to clear and settle transactions. Therefore, the Commission finds that the proposed rule change, as modified by Amendment No. 1, would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in ICE Clear Europe's custody and control, and, in general, protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[22]

(B) Consistency With Rule 17Ad–22(e)(6)(ii)

Rule 17Ad–22(e)(6)(ii) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that marks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances.[23]

As discussed above, the Commission believes that the amendments to the Finance Procedures would allow ICE Clear Europe to request additional intraday margin, as necessary, by extending the window during which ICE Clear Europe may call such margin. Moreover, the Commission believes that the amendments to the Finance Procedures regarding when participants must satisfy margin calls should help ensure that ICE Clear Europe collects intraday margin on a timely basis. The Commission believes that both of these aspects of the proposed rule change should therefore help ensure that ICE Clear Europe's risk-based margin system includes the authority and operational capacity to make intraday margin calls.

Therefore, for the above reasons the Commission finds that these aspects of the proposed rule change, as modified by Amendment No. 1, are consistent with Rule 17Ad–22(e)(6)(ii).[24]

(C) Consistency With Rule 17Ad–22(e)(16)

Rule 17Ad–22(e)(16) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to safeguard its own and its participants' assets, minimize the risk of loss and delay in access to these assets, and invest such assets in instruments with minimal credit, market, and liquidity risks.[25]

As discussed above, the proposed rule change would amend ICE Clear Europe's Investment Management Policy. For the reasons discussed above in connection with Section 17A(b)(3)(F), the Commission believes that these aspects of the proposed rule change would help ensure that ICE Clear Europe safeguards its own and its participants' assets—specifically, ICE Clear Europe's deposits of cash, which would include cash posted by clearing participants to satisfy their margin and Guaranty Fund requirements—and minimize the risk of loss or delay of such assets. For the same reasons, the Commission believes that the changes to the Investment Management Policy would help ensure that ICE Clear Europe invests such assets in instruments with minimal credit, market, and liquidity risks.

Therefore, for the above reasons the Commission finds that these aspects of the proposed rule change, as modified by Amendment No. 1, are consistent with Rule 17Ad–22(e)(16).[26]

V. Basis for Accelerated Approval

In its filing, ICE Clear Europe requested that the Commission grant

[21] ICE Clear Europe also proposed to amend the Investment Management Policy governance processes, update the description of the board risk policy and related risk management thresholds, and update references to the Clearing Risk and Finance departments. The Commission believes these changes would help ensure that the Investment Management Policy is maintained and that any issues resulting in a breach of a risk management threshold are appropriately addressed. The Commission believes that this would help maintain the efficacy of the Investment Management Policy which, as discussed, the Commission believes is necessary to help safeguard ICE Clear Europe's investments, including its investment of cash associated with margin requirements.

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 17 CFR 240.17Ad–22(e)(6)(ii).

[24] *Id.*

[25] 17 CFR 240.17Ad–22(e)(16).

[26] *Id.*

accelerated approval of the proposed rule change pursuant to Section 19(b)(2)(C)(iii) of the Exchange Act.[27] Under Section 19(b)(2)(C)(iii) of the Act,[28] the Commission may grant accelerated approval of a proposed rule change if the Commission finds good cause for doing so. ICE Clear Europe believes that accelerated approval is warranted because the proposed rule change, as modified by Amendment No. 1, is required to comply with requirements under the European Market Infrastructure Regulation that ICE Clear Europe have the ability to call for intraday margin for relevant F&O contracts, and ICE Clear Europe is seeking to comply with those requirements as soon as possible.[29]

The Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act,[30] for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, prior to the 30th day after the date of publication of notice in the **Federal Register**, because the proposed rule change is required as soon as possible in order to facilitate ICE Clear Europe's efforts to comply with the aforementioned requirements.[31] Additionally, the Commission notes that the proposed changes do not impede compliance with relevant U.S. law, including Section 17A(b)(3)(F) of the Act.[32]

VI. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[33] and Rules 17Ad–22(e)(6)(ii) and 17Ad–22(e)(16) thereunder.[34]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[35] that the proposed rule change (SR–ICEEU–2018–012), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.[36]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22204 Filed 10–11–18; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(2)(C)(iii).

[28] 15 U.S.C. 78s(b)(2)(C)(iii).

[29] *See supra* note 5.

[30] 15 U.S.C. 78s(b)(2)(C)(iii).

[31] *See id.*

[32] 15 U.S.C. 78q–1(b)(3)(F).

[33] *Id.*

[34] 17 CFR 240.17Ad–22(e)(6)(ii) and (e)(16).

[35] 15 U.S.C. 78s(b)(2).

[36] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84376; File No. SR–FINRA–2018–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Change Relating to Provision of Test Result Information to Candidates Who Pass a FINRA Qualification Examination

October 5, 2018.

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 September 27, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions relating to test results information on the content outlines of certain FINRA representative- and principal-level qualification examinations. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The text of the proposed rule change [sic] is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Each FINRA representative- and principal-level qualification examination has a minimum score threshold that is necessary for passing the examination (also referred to as a ''passing score''). For instance, the passing score for the current General Securities Representative (Series 7) examination is 72. FINRA determines the passing score for each examination based on a process known as standard setting, which assesses a number of factors, including industry trends, historical examination performance and evaluations of content difficulty by a committee of industry professionals who have passed the related examination. The passing score for an examination reflects the minimum level of knowledge necessary to perform the functions for which a candidate is registering.

A candidate's numerical score on an examination is necessary to determine whether the candidate has satisfied the minimum score threshold for passing the examination. In addition, if a candidate fails to meet the minimum score threshold for passing an examination, the candidate's numerical score is relevant in evaluating the extent to which the candidate needs additional study time and training and whether the candidate should retake the examination.[5]

Currently, candidates who take a FINRA qualification examination receive a test results report of their

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] A candidate who fails an examination is eligible to retake that examination after 30 calendar days. However, if a candidate fails an examination three or more times in succession within a two-year period, the candidate is prohibited from retaking that examination until 180 calendar days from the date of the candidate's last attempt to pass it.

performance at the end of their test session. The test results report will indicate a pass or fail status. Further, the report will indicate a total score and a score profile for each major section of the content outline. Several FINRA representative- and principal-level examination content outlines currently include information relating to the test results.[6] This information appears in different places in the content outlines. For instance, in the Series 99 examination outline, the information appears under the ''Candidates' Test Results'' heading; whereas, in the Series 22 examination outline, the information is under the ''Introduction'' heading.

Effective October 1, 2018, FINRA is restructuring its representative-level qualification examination program.[7] In conjunction with the restructuring, starting on October 1, 2018, FINRA will no longer provide a total score and a score profile for each major section of the content outline to candidates who pass a qualification examination. FINRA believes that providing such information is unnecessary once a candidate has met the minimum score threshold for passing an examination.[8] However, FINRA will continue to provide a total score and a score profile for each major section of the content outline to a candidate who fails an examination. As noted above, such information is relevant in evaluating whether the candidate needs additional study time and training and whether the candidate should retake the examination.

Consistent with this administrative change, FINRA is reformatting the content outlines for the current Series 6, 7, 11, 17, 22, 37, 38, 42, 57, 62, 72, 79, 82 and 99 examinations as well as for the Series 4, 9, 10, 16, 23, 24, 26, 27, 28 and 39 examinations to remove references to information relating to test results. Instead, such information will be available on a dedicated location on FINRA's website.

Availability of Content Outlines

The revised content outlines will be available on FINRA's website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program.

2. Statutory Basis

FINRA believes that the proposed changes to the examination content outlines are consistent with the provisions of Section 15A(b)(6) of the Act,[9] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[10] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA is proposing an administrative change relating to test results information on the content outlines, without compromising the qualification standards. In addition, the proposed rule change streamlines the content outlines by moving test results information, which currently appears in different places on the outlines, to a dedicated location on the FINRA website.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

Economic Baseline

Currently, candidates who take a FINRA qualification examination receive a total score and score break down regardless of whether they pass or fail their examination. These examinations are designed to demonstrate basic proficiency around a subject matter.

Anecdotally, FINRA is aware that candidates approach the test with different objectives; specifically, some candidates seek to achieve the highest possible score while others seek only to ensure that they achieve a score sufficient to pass the examination.

Economic Impact

Beginning on October 1, 2018, FINRA will no longer provide score information to candidates who pass a qualification examination. A candidate will receive score information *only* if the candidate did not pass the examination. In conjunction with this change, the proposed rule change revises the impacted content outlines to remove references to information relating to score information.

Impact on Individuals

The absence of score information for candidates who pass a qualification examination neither imposes additional costs on, nor provides additional benefits to, non-passing candidates. The continued availability of the failing scores and score profiles will continue to benefit candidates who want to use this information to decide whether to retake the examination and if so, what areas they should focus on when studying for future examinations.

For passing candidates, the lack of score information affects the information set available to them, and thus may impact them in different ways. For example, candidates may use the information provided today in a variety of contexts related to their employment, including negotiating compensation, seeking future employment or demonstrating areas of particular strength. However, FINRA knows of no established evidence that these scores reliably predict future outcomes related to employment success.[11] Further,

[6] These representative-level examinations are the current Investment Company and Variable Contracts Products Representative (Series 6), General Securities Representative (Series 7), Order Processing Assistant Representative (Series 11), United Kingdom Securities Representative (Series 17), Direct Participation Programs Representative (Series 22), Canadian Securities Representative (Series 37 and Series 38), Options Representative (Series 42), Securities Trader (Series 57), Corporate Securities Representative (Series 62), Government Securities Representative (Series 72), Investment Banking Representative (Series 79), Private Securities Offerings Representative (Series 82) and Operations Professional (Series 99) examinations. These examinations are available to candidates who open an examination window in the Central Registration Depository (''CRD®'') system prior to October 1, 2018. The revised Series 6, 7, 22, 57, 79, 82 and 99 examinations, which will be available to candidates who open an examination window on or after October 1, 2018, do not include information relating to examination results. In addition, the current Series 11, 17, 37, 38, 42, 62 and 72 will not be available to candidates who open an examination window on or after October 1, 2018.

The principal-level examinations are the Registered Options Principal (Series 4), General Securities Sales Supervisor (Series 9 and Series 10), Supervisory Analyst (Series 16), General Securities Principal Sales Supervisor Module (Series 23), General Securities Principal (Series 24), Investment Company and Variable Contracts Products Principal (Series 26), Financial and Operations Principal (Series 27), Introducing Broker-Dealer Financial and Operations Principal (Series 28) and Direct Participation Programs Principal (Series 39) examinations.

[7] *See Regulatory Notice* 17–30 (October 2017).

[8] Unlike FINRA qualification examinations, some examinations, such as the SAT, do not have a minimum score threshold for passing the examination (*i.e.,* they do not have a passing score). For such an examination, an individual's total score and breakdown of the score is necessary in evaluating the individual's performance compared to other individuals who took the examination.

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78*o*–3(g)(3).

[11] In *Do Investors Have Valuable Information About Brokers?,* Qureshi and Sokobin demonstrate that examination scores are not informative for predicting future customer harm when used in conjunction with other relevant public data

Continued

FINRA qualification examinations are not designed to provide information beyond demonstration of basic proficiency. For these reasons, comparisons of test scores across candidates may not be appropriate.[12]

Nevertheless, to the extent that test scores are used by individuals and others today, restricting the information may impose certain costs. For individuals, these costs can vary from time and effort to differentiate themselves, to direct monetary costs if a test score would have improved their compensation or position. Regardless of its predictive ability, where parties today rely on the details of passing scores to make decisions and would make a different judgment in the absence of such information, the change may result in an economic transfer away from high-scoring individuals towards others.

Impact on Other Users of the Information

The economic impact to others is fundamentally related to the extent to which candidates share passing score information with current or prospective employers and the reliability of such scores as a signal in the contexts for which they are being used.

In situations where passing scores are misleading and cause users to make inefficient or ineffective decisions, the elimination of this information may lead to benefits through better decision making. In situations where passing scores are not misleading but are uninformative, they add noise to the decision-making process. However, noisy information should not cause consistent bias in the aggregate. Finally, in situations where passing scores are viewed as providing valuable information in decision making, the elimination of this information may result in the need for an alternative process and, in turn, result in additional costs.

(available at: *http://www.finra.org/industry/chief-economist*).

[12] The Standard for Educational and Psychological Testing published by the American Education Research Association, American Psychological Association, and National Council on Measurement in Education have established that ''[i]f validity for some common or likely interpretation for a given use has not been evaluated, or if such an interpretation is inconsistent with available evidence, that fact should be made clear and potential users should be strongly cautioned about making unsupported interpretations.''

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f)(1) of Rule 19b–4 thereunder.[14] 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–FINRA–2018–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2018–036. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2018–036 and should be submitted on or before November 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22205 Filed 10–11–18; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(1).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84374; File No. SR–FINRA–2018–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to FINRA Rule 6710 To Modify the Dissemination Protocols for Agency Debt Securities

October 5, 2018.

I. Introduction

On August 16, 2018, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 modify the dissemination protocols for Agency Debt Securities. The proposed rule change was published for comment in the **Federal Register** on August 23, 2018.[3] The Commission received no comment letters on the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83882 (August 17, 2018), 83 FR 42732 (''Notice'').

change. This order approves the proposed rule change.

II. Description of the Proposal

Under FINRA's rules, each member firm is required to report to the Trade Reporting and Compliance Engine (''TRACE'') transactions in TRACE-Eligible Securities,[4] including securities that meet the definition of ''Agency Debt Security.'' [5] Currently, for disseminated reports of transactions in Agency Debt Securities, FINRA displays either the entire notional size (volume) of the transaction or a capped amount, depending on whether the security is Investment Grade,[6] Non-Investment Grade,[7] or unrated.[8] For Agency Debt Securities that are Investment Grade or unrated, FINRA disseminates the entire notional size for transactions of $5 million or less in par value traded, but a capped size—''$5MM+''—for transactions exceeding $5 million in par value traded; for transactions in Agency Debt Securities that are Non-Investment Grade, FINRA disseminates the entire notional size for transactions of $1 million or less in par value traded but a capped size— ''1MM+''—for transactions exceeding $1 million in par value traded.[9]

FINRA has proposed to apply the $5 million dissemination cap to transactions in all Agency Debt Securities, regardless of whether the security is Investment Grade, Non-Investment Grade, or unrated. FINRA has stated that, when adopting the original dissemination caps for Agency Debt Securities, it believed that unrated Agency Debt Securities should default to the $5 million dissemination cap due to factors such as that they trade more consistently with Investment Grade securities that are subject to the $5 million dissemination cap.[10] FINRA has further stated that it is not aware of the existence of any Non-Investment Grade Agency Debt Securities other than credit risk transfer securities (''CRTs''), a type of Agency Debt Security issued by Fannie Mae (''Fannie'') and Freddie Mac (''Freddie'').[11] Based on FINRA's experience with CRTs and in consultation with Fannie and Freddie, FINRA believes that it is appropriate to disseminate Non-Investment Grade CRTs with the $5 million dissemination cap. Because CRTs are the only type of Agency Debt Security rated less than Investment Grade, FINRA is proposing to simplify the dissemination structure by applying the $5 million cap to all Agency Debt Securities irrespective of rating.[12]

FINRA has stated that it will announce the effective date of the rule change in a *Regulatory Notice* to be published no later than 60 days following a Commission approval, and the effective date will be no later than 120 days following publication of that *Regulatory Notice.*[13]

III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[15] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposal is reasonably designed to simplify the dissemination protocols for transactions in Agency Debt Securities by instituting a uniform $5 million dissemination cap, regardless of whether the security is Investment Grade, Non-Investment Grade, or unrated. The Commission received no comments that objected to the proposed rule change and notes that FINRA consulted with Fannie and Freddie before submitting the proposal.

Pursuant to Section 19(b)(5) of the Act,[16] the Commission consulted with and considered the views of the Treasury Department in determining to approve the proposed rule change. The Treasury Department indicated its support for the proposal.[17] Pursuant to Section 19(b)(6) of the Act,[18] the Commission has considered the sufficiency and appropriateness of existing laws and rules applicable to government securities brokers, government securities dealers, and their associated persons in approving the proposal. As discussed above, by applying the $5 million dissemination cap to all Agency Debt Securities regardless of rating, the rule change will simplify the dissemination protocols for transactions in Agency Debt Securities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–FINRA–2018–032) is approved.

[4] *See* FINRA Rule 6710(a) (defining ''TRACE-Eligible Security'').

[5] FINRA Rule 6710(l) generally defines ''Agency Debt Security'' to mean a debt security (i) issued or guaranteed by an Agency as defined in paragraph (k); (ii) issued or guaranteed by a Government-Sponsored Enterprise as defined in paragraph (n); or (iii) issued by a trust or other entity that was established or sponsored by a Government-Sponsored Enterprise for the purpose of issuing debt securities, where such enterprise provides collateral to the trust or other entity or retains a material net economic interest in the reference tranches associated with the securities issued by the trust or other entity.

[6] FINRA Rule 6710(h) defines ''Investment Grade'' to mean ''a TRACE-Eligible Security that, if rated by only one nationally recognized statistical rating organization (''NRSRO''), is rated in one of the four highest generic rating categories; or if rated by more than one NRSRO, is rated in one of the four highest generic rating categories by all or a majority of such NRSROs; provided that if the NRSROs assign ratings that are evenly divided between (i) the four highest generic ratings and (ii) ratings lower than the four highest generic ratings, FINRA will classify the TRACE-Eligible Security as Non-Investment Grade for purposes of TRACE. If a TRACE-Eligible Security is unrated, for purposes of TRACE, FINRA may classify the TRACE-Eligible Security as an Investment Grade security. FINRA will classify an unrated Agency Debt Security as defined in [Rule 6710(l)] as an Investment Grade security for purposes of the dissemination of transaction volume.''

[7] FINRA Rule 6710(i) defines ''Non-Investment Grade'' to mean ''a TRACE-Eligible Security that, if rated by only one NRSRO, is rated lower than one of the four highest generic rating categories; or if rated by more than one NRSRO, is rated lower than one of the four highest generic rating categories by all or a majority of such NRSROs. Except as provided in [Rule 6710(h)], if a TRACE-Eligible Security is unrated, FINRA may classify the TRACE-Eligible Security as a Non-Investment Grade security.''

[8] *See* Notice, 83 FR at 42732.

[9] *See* Securities Exchange Act Release No. 59733 (April 8, 2009), 74 FR 17709, 17712 (April 16, 2009) (SR–FINRA–2009–010) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Expand TRACE To Include Agency Debt Securities and Primary Market Transactions).

[10] *See* Notice, 83 FR at 42732.

[11] *See id.*

[12] *See id.* at 42733. In support of the proposal, FINRA provided statistics about the trade count and notional volume traded for Investment Grade, Non-Investment Grade, and unrated Agency Debt Securities indicating that, for both metrics, transactions in Non-Investment Grade Agency Debt Securities currently account for only a small percentage of transactions in Agency Debt Securities. *See id.*

[13] *See id.*

[14] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78o–3(b)(6).

[16] 15 U.S.C. 78s(b)(5) (providing that the Commission ''shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor'').

[17] Telephone conversation with Treasury Department staff and Brett Redfearn, Director, Division of Trading and Markets, *et al.,* on October 2, 2018.

[18] 15 U.S.C. 78s(b)(6).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22203 Filed 10–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84379; File No. SR–NYSEArca–2018–73]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Listing and Trading of Shares of the First Trust Short Duration Managed Municipal ETF Under NYSE Arca Rule 8.600–E

October 5, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 3, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the First Trust Short Duration Managed Municipal ETF under NYSE Arca Rule 8.600–E (''Managed Fund Shares''). 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, 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 list and trade shares (''Shares'') of the First Trust Short Duration Managed Municipal ETF (''Fund'') under NYSE Arca Rule 8.600–E,[4] which governs the listing and trading of Managed Fund Shares.[5] The Shares will be offered by First Trust Exchange-Traded Fund III (the ''Trust''), which is registered with the Commission as an open-end management investment company.[6] The Fund is a series of the Trust.

First Trust Advisors L.P. will be the Fund's investment adviser (''Adviser''). First Trust Portfolios L.P. will be the Fund's distributor. Brown Brothers Harriman & Co. will serve as custodian (''Custodian'') and transfer agent (''Transfer Agent'') for the Fund.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer, and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') has approved Exchange listing and trading shares of actively managed funds 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 under Rule 8.600); 80865 (June 6, 2017), 82 FR 26970 (June 12, 2017) (order approving listing and trading of shares of the Franklin Liberty Intermediate Municipal Opportunities ETF and Franklin Liberty Municipal Bond ETF under NYSE Arca Equities Rule 8.600); 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600); 82166 (November 29, 2017), 82 FR 57497 (December 5, 2017) (SR–NYSEArca–2017–90) (order approving listing and trading of shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E). The Commission also has 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 Equities Rule 5.2(j)(3). *See* Securities Exchange Act Release No.63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120).

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On August 17, 2018, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–176976 and 811–22245) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

public information regarding the Fund's portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable adviser will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

First Trust Short Duration Managed Municipal ETF

According to the Registration Statement, the Fund will seek to provide federally tax-exempt income consistent with capital preservation. Under normal market conditions [8], the Fund will seek to achieve its investment objective by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes (collectively, ''Municipal Securities'').[9]

According to the Registration Statement, the Fund may invest in the following Municipal Securities:

- Municipal lease obligations (and certificates of participation in such obligations),
- municipal general obligation bonds,
- municipal revenue bonds,
- municipal notes,
- municipal cash equivalents,
- alternative minimum tax bonds,
- private activity bonds (including without limitation industrial development bonds),
- securities issued by custodial receipt trusts,[10] and
- pre-refunded and escrowed to maturity bonds.

The Fund may purchase new issues of Municipal Securities on a when-issued or forward commitment basis.

The Municipal Securities in which the Fund invests may be fixed, variable or floating rate securities.

Other Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in Municipal Securities as described above, the Fund may, under normal market conditions, invest up to 20% of its net assets in the aggregate in the securities and financial instruments described below.

The Fund may hold cash and cash equivalents.[11] In addition, the Fund may hold the following fixed income securities with maturities of three months or more: Fixed rate and floating rate U.S. government securities; certificates of deposit; bankers' acceptances; repurchase agreements; bank time deposits; and commercial paper.

The Fund may hold the following derivative instruments: U.S. Treasury futures contracts; interest rate futures; futures on fixed income securities or fixed income securities indexes; and exchange-traded and over-the-counter (''OTC'') credit default swaps, interest rate swaps, swaps on fixed income securities and swaps on fixed income securities indexes.

The Fund may invest in exchange-traded funds (''ETFs''), or acquire short positions in such ETFs.[12]

The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV [13] only in large blocks of Shares (''Creation Units'') in transactions with authorized participants, generally including broker-dealers and large institutional investors (''Authorized Participants''). Creation Units generally will consist of 50,000 Shares. The size of a Creation Unit is subject to change. As described in the Registration Statement, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the ''Creation Basket'').[14] In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments (which may include cash-in-lieu amounts) with the lower value will pay to the other an amount in cash equal to the difference (referred to as the ''Cash Component'').

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor and the Transfer Agent with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the Transfer Agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., E.T.) (the ''Closing Time'') in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day. The Custodian, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5). The Exchange represents that, on a temporary basis, including for defensive purposes, during the initial invest-up period (for purposes of this filing, *i.e.,* the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (for purposes of this filing, *i.e.* rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objectives. According to the Exchange, the Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

[9] Municipal Securities are generally issued by or on behalf of states, territories or possessions of the U.S. and the District of Columbia and their political subdivisions, agencies, authorities and other instrumentalities.

[10] According to the Registration Statement, custodial receipts are financial instruments that are underwritten by securities dealers or banks and evidence ownership of future interest payments, principal payments or both on certain municipal securities.

[11] For purposes of this filing, the term ''cash equivalents'' has the meaning specified in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[12] For purposes of this filing, the term ''ETFs'' includes Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, -2X, 3X or -3X) ETFs.

[13] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m., Eastern Time (''E.T.''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

[14] It is expected that the Fund will typically issue and redeem Creation Units on a cash basis; however, at times, the Fund may issue and redeem Creation Units on an in-kind (or partially in-kind) (or partially cash) basis.

day prior to commencement of trading in the Shares.

Availability of Information

The Fund will disclose on the Fund's website (*www.ftportfolios.com*) at the start of each business day the identities and quantities of the securities and other assets held by the Fund that will form the basis of the Fund's calculation of its NAV on that business day. The portfolio holdings so disclosed will be based on information as of the close of business on the prior business day and/or trades that have been completed prior to the opening of business on that business day and that are expected to settle on the business day.

The website for the Fund will contain the following information, on a per-Share basis, for the Fund: (1) The prior business day's NAV; (2) the market closing price or midpoint of the bid-ask spread at the time of NAV calculation (the ''Bid-Ask Price''); and (3) a calculation of the premium or discount of the Bid-Ask Price against such NAV.

The Fund's portfolio holdings will be disclosed on the 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. On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600–E (c)(2) to the extent applicable. The website information will be publicly available at no charge.

The approximate value of the Fund's investments on a per-Share basis, the indicative optimized portfolio value (''IOPV''), will be disseminated every 15 seconds during the Exchange Core Trading Session (ordinarily 9:30 a.m. to 4:00 p.m., E.T.).

Investors can also obtain the Fund's Statement of Additional Information (''SAI'') and shareholder reports. The Fund's SAI and shareholder reports will be available free upon request from the Trust, and those documents and Form N–CSR may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.* 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line, and from the Exchange. Quotation information from brokers and dealers or pricing services will be available for Municipal Securities. Price information for money market funds is available from the applicable investment company's website and from market data vendors. Price information for ETFs and exchange-traded futures and swaps held by the Fund is available from the applicable exchange. Price information for certain fixed income securities held by the Fund is available through the Financial Industry Regulatory Authority's (FINRA) Trade Reporting and Compliance Engine (''TRACE''). Price information for certain Municipal Securities held by the Fund is available through the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB''). Price information for cash equivalents; fixed income securities with maturities of three months or more (as described above), and OTC swaps will be available from one or more major market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements. In addition, the IOPV (which is the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3)), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors or other information providers.[15]

Investment Restrictions

The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Under normal market conditions, except for periods of high cash inflows or outflows,[16] the Fund will satisfy the following criteria:

i. The Fund will have a minimum of 20 non-affiliated issuers [17];

ii. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio [18];

iii. No individual bond will account for more than 5% of the weight of the Fund's portfolio;

iv. The Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states;

v. The Fund will be diversified among a minimum of five different sectors of the municipal bond market.[19]

Pre-refunded bonds will be excluded from the above limits. The Adviser represents that, with respect to pre-refunded bonds (also known as refunded or escrow-secured bonds, the issuer ''prerefunds'' the bond by setting aside in advance all or a portion of the amount to be paid to the bondholders when the bond is called. Generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds. The escrow would be sufficient to satisfy principal and interest on the call or maturity date and one would not look to the issuer for repayment. Because pre-refunded bonds' pricing would be valued based on the applicable escrow (generally U.S. government securities), such pre-refunded securities would not be readily susceptible to market manipulation and it would be unnecessary to apply the diversification and weighting criteria set forth above.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio will meet all such requirements except for those set forth in Commentary .01(b)(1).[20]

The Exchange believes that it is appropriate and in the public interest to

[15] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[16] *See* note 8, *supra.*

[17] For the avoidance of doubt, in the case of Municipal Securities that are issued by entities whose underlying assets are municipal bonds, the underlying municipal bonds will be taken into account. Additionally, for purposes of this restriction, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, would be treated as separate, non-affiliated issuers of Municipal Securities.

[18] *See* note 17, *supra.*

[19] The Fund's investments in Municipal Securities will include investments in state and local (*e.g.,* county, city, town) Municipal Securities relating to such industries or sectors as the following: Airports; bridges and highways; hospitals; housing; jails; mass transportation; nursing homes; parks; public buildings; recreational facilities; school facilities; streets; and water and sewer works.

[20] Commentary .01(b)(1) to NYSE Arca Rule 8.600–E provides that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified.

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of Municipal Securities, as described above, that would support the Fund's investment goal.

The Exchange believes that, notwithstanding that the Fund's portfolio may not satisfy Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will not be susceptible to manipulation. As noted above, the Fund's investments, excluding pre-refunded bonds, as described above, will be diversified among a minimum of 20 non-affiliated municipal issuers; no single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among municipal issuers in at least 10 states; and the Fund will be diversified among a minimum of five different sectors of the municipal bond market.

The Exchange notes that the Commission has previously approved an exception from requirements set forth in Commentary .01(b) relating to municipal securities similar to those proposed with respect to the Fund.[21]

The Exchange notes that, other than Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will meet all other requirements of Rule 8.600–E.

Trading Halts

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 the Fund.[22] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on NYSE Arca from 4 a.m. to 8 p.m., E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on NYSE Arca is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. Consistent with NYSE Arca Rule 8.600–E(d)(2)(B)(ii), the Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3[23] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Fund's investments will be consistent with the Fund's investment goal and will not be used to enhance leverage.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by 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 in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[24]

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, ETFs and certain futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs and certain futures from such markets and other entities.[25] In addition, the Exchange may obtain information regarding trading in the Shares, ETFs and certain futures 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 the Fund reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the

[21] *See* Securities Exchange Act Release Nos. 82974 (March 30, 2018), 83 FR 14698 (April 5, 2018) (SR–NYSEArca–2017–99) (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 the Hartford Schroders Tax-Aware Bond ETF Under NYSE Arca Rule 8.600–E); 82166 (November 29, 2017), 82 FR 57497 (December 5, 2017) (SR–NYSEArca–2017–90) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E). *See also,* Securities Exchange Act Release 83982 (August 29, 2018) (SR–NYSEArca–2018–62) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the American Century Diversified Municipal Bond ETF under NYSE Arca Rule 8.600–E).

[22] *See* NYSE Arca Rule 7.12–E.

[23] 17 CFR 240.10A–3.

[24] 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.

[25] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on 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 the Fund on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (4) how information regarding the IOPV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [26] 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 will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs and certain futures 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, ETFs and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs and certain futures 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 the Fund reported to TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. The Adviser is not a registered broker-dealer but is affiliated with a broker-dealer. The Adviser has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio.

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified. As noted above, the Fund's investments will be well-diversified in that the Fund, excluding pre-refunded bonds, as described above, will have a minimum of 20 non-affiliated municipal issuers; no single municipal issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among municipal issuers in at least 10 states; and the Fund will be diversified among a minimum of five different industries or sectors of the municipal bond market. With respect to the proposed exclusion for pre-refunded bonds described above, generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds. The escrow would be sufficient to satisfy principal and interest on the call or maturity date and one would not look to the issuer for repayment. Because pre-refunded bonds' pricing would be valued based on the applicable escrow (generally U.S. government securities), such pre-refunded securities would not be readily susceptible to market manipulation and it would be unnecessary to apply the diversification and weighting criteria set forth above in ''Investment Restrictions.''

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of municipal securities, as described above, that would support the Fund's investment objective.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund

[26] 15 U.S.C. 78f(b)(5).

and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line, and from the Exchange. Quotation information from brokers and dealers or pricing services will be available for Municipal Securities. Price information for money market funds is available from the applicable investment company's website and from market data vendors. Price information for ETFs and exchange-traded futures and swaps held by the Fund is available from the applicable exchange. Price information for certain fixed income securities held by the Fund is available FINRA's TRACE. Price information for certain Municipal Securities held by the Fund is available through the EMMA of the MSRB. Price information for cash equivalents, fixed income securities with maturities of three months or more (as described above), and OTC swaps will be available from one or more major market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the 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 inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 an additional type of actively-managed exchange-traded product that principally holds municipal securities and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares 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, as noted above, investors will have ready access to information regarding the Fund's holdings, IOPV, Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that principally holds 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [27] and Rule 19b–4(f)(6) thereunder.[28] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the waiver of the 30-day delayed operative date is consistent with the protection of investors and the public interest because the Commission has previously approved an exception from requirements set forth in Commentary .01(b) relating to municipal securities similar to those proposed with respect to the Fund.[32] Additionally, the Exchange asserts that waiver will permit the prompt listing and trading of an additional issue of Managed Fund Shares that principally holds municipal securities, which will enhance competition among issuers, investment advisers and other market participants with respect to listing and trading of issues of Managed Fund Shares that hold municipal securities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed continuing listing standards for the Shares are substantially similar to those applicable to others approved by the Commission for similar funds. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[33]

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) [34] 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.

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and 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.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* note 21, *supra*.

[33] 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).

[34] 15 U.S.C. 78s(b)(2)(B).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–73 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–2018–73. 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–NYSEArca–2018–73, and should be submitted on or before November 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22208 Filed 10–11–18; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84373; File No. SR–ISE–2018–56]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Its Rules Relating to Complex Orders

October 5, 2018.

I. Introduction

On June 22, 2018, Nasdaq ISE, LLC (''ISE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide additional detail to its rules governing the trading of Complex Orders. The proposed rule change was published for comment in the **Federal Register** on July 9, 2018.[3] The Commission received no comments regarding the proposal. On August 10, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended the time for Commission action on the proposal until October 5, 2018.[5] ISE filed Amendment No. 1 to the proposal on October 1, 2018.[6] The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

As described more fully in the Notice, the proposal modifies ISE's rules to provide additional detail regarding the trading of Complex Orders on ISE.

A. Definitions

The proposal revises ISE Rule 722(a) to add new defined terms and modify existing defined terms relating to Complex Orders. The proposal defines ''Complex Order'' to include Complex Options Orders, Stock-Option Orders, and Stock-Complex Orders.[7] Complex Options Orders, Stock-Option Orders, and Stock-Complex Orders refer to orders for a Complex Options Strategy,[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83576 (July 2, 2018), 83 FR 31783 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83818 (August 10, 2018), 83 FR 40800 (August 16, 2018).

[6] Amendment No. 1 revises the proposal to: (1) Discontinue Reserve Complex Orders; (2) indicate in proposed ISE Rule 722(c)(2) that complex strategies will not be executed at prices inferior to the best net price achievable from the best net price on ISE for the individual legs of the strategy; (3) indicate in proposed ISE Rule 722(d)(2) that complex strategies will execute against Priority Customer interest on the single leg book at the same price before executing against interest on the Complex Order Book; (4) indicate in proposed ISE Rule 722, Supplementary Material .01(b)(ii) that an exposure period will end immediately when a Complex Order for the same complex strategy on either side of the market becomes marketable against interest on the Complex Order Book or bids and offers in the leg market; (5) revise proposed ISE Rules 722, Supplementary Material .01(b)(iii) and .08(c)(4)(vi) to describe the sequence of executions when an incoming Complex Order causes the early termination of a complex exposure auction and an auction for one of the component legs of the complex strategy; (6) revise proposed ISE Rule 722, Supplementary Material .01(c) to indicate that at the end of the exposure period, the interest against which the exposed order executes includes bids and offers on the Complex Order Book and for the individual legs that arrived during the exposure period; (7) revise proposed ISE Rule 722, Supplementary Material .01(d) to indicate that an exposure process will terminate immediately without an execution if a trading halt is initiated in any series underlying the Complex Order being exposed; (8) clarify the description of the execution of Stock-Option and Stock Complex Orders in proposed ISE Rule 722, Supplementary Material .02; (9) revise proposed ISE Rule 722, Supplementary Material .08(e) to indicate that Complex QCC Orders may be entered in $0.01 increments; (10) delete provisions in ISE Rule 722 indicating that ISE will recommence the functionality that permits concurrent auctions for the same complex strategy by April 17, 2019, and add proposed ISE Rule 722, Supplementary Material .08(g) to indicate the auctions for the same complex strategy will not operate concurrently; (11) add proposed ISE Rule 722, Supplementary Material .08(h) to indicate that an auction for a complex strategy and an auction for a component leg of the complex strategy may operate concurrently; (12) indicate in proposed ISE Rule 722, Supplementary Material .13 to indicate that the stock leg of a stock-option order must be marked ''buy,'' ''sell,'' ''sell short,'' or ''sell short exempt,'' in compliance with Regulation SHO under the Act; (13) provide a new example illustrating customer priority and the execution of a Complex Order; (14) indicate that ISE does not manage and curtail its functionality for executing a complex strategy against leg market interest; (15) add references to the NBBO and the underlying stock in proposed ISE Rule 722, Supplementary Material .07(a); (16) provide additional discussion of the rationale for permitting a Trade Value Allowance of any amount when a Complex Order executes in an auction and does not trade solely with its contra-side order; and (17) make several technical corrections to the proposal. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-ise-2018-56/srise201856-4467038-175833.pdf.*

[7] *See* proposed ISE Rule 722(a)(5).

[8] A Complex Options Strategy is the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. Only those Complex Options Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. *See* proposed ISE Rule 722(a)(1). ISE will determine the applicable number of legs for Complex Options Strategies and Stock-

a Stock-Option Strategy,[9] and a Stock-Complex Strategy,[10] respectively.[11] The term ''complex strategy'' includes Complex Options Strategies, Stock-Option Strategies, and Stock-Complex Strategies.[12] ISE believes that the definitions will help to clarify whether provisions in its rules apply only to Complex Options Strategies, only to Stock-Option Strategies, only to Stock-Complex Strategies, or to all three.[13] The proposal deletes from ISE Rule 722 the definition of SSF-option order. ISE states that single stock futures have not gained sufficient popularity among investors to support a SSF-option product, and that ISE has never received a SSF-option order.[14]

B. Order Types

New ISE Rule 722(b)[15] identifies the following order types and designations that are available for Complex Orders: Market Complex Order;[16] Limit Complex Order;[17] All-or-None Complex Order;[18] Attributable Complex Order;[19] Customer Cross Complex Order;[20] Qualified Contingent Cross Complex Order;[21] Day Complex Order;[22] Fill-or-Kill Complex Order;[23] Immediate-or-Cancel Complex Order;[24] Opening Only Complex Order;[25] Good-Till-Date Complex Order;[26] Good-Till-Cancel Complex Order;[27] Exposure Complex Order;[28] Exposure Only Complex Order;[29] and Complex QCC with Stock Order.[30] The order types and designations for Complex Orders in proposed ISE Rule 722(b) are based on order types and designations currently provided in ISE Rule 715 for regular orders.[31] The proposal also amends ISE Rule 715(k) to indicate that legging orders are generated only for Complex Options Orders.

ISE originally proposed to include Reserve Complex Orders in the order types available for Complex Orders.[32] In Amendment No. 1, ISE proposes to discontinue offering Reserve Complex Orders in the fourth quarter of 2018.[33]

Complex Strategies on a class-by-class basis. *See* Notice, 83 FR at 31784. ISE notes that, by definition, Stock-Option Strategies will have only one option leg and one stock leg. *See id.* at 31784, n.3.

[9] A Stock-Option Strategy is the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg. *See* proposed Rule 722(a)(2).

[10] A Stock-Complex Strategy is the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of a Complex Options Strategy on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option legs to the total number of units of the underlying stock or convertible security in the stock leg. Only those Stock-Complex Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. *See* proposed ISE Rule 722(a)(3).

[11] *See* proposed ISE Rule 722(a)(5).

[12] *See* proposed ISE Rule 722(a)(4).

[13] *See* Notice, 83 FR at 31784.

[14] *See id.* ISE also proposes to delete current ISE Rule 722, Supplementary Material .01, which references SSF-option orders and includes outdated language relating to Stock-Option and Stock-Complex Orders. ISE will file a proposed rule change with the Commission if it decides to offer SSF-option orders in the future. *See id.*

[15] The proposal renumbers current ISE Rule 722(b) as ISE Rule 722(c).

[16] A Market Complex Order is a Complex Order to buy or sell a complex strategy that is to be executed at the best price obtainable. If not executable upon entry, such orders will rest on the Complex Order Book unless designated as fill-or-kill or immediate-or-cancel. *See* proposed ISE Rule 722(b)(1).

[17] A Limit Complex Order is a Complex Order to buy or sell a complex strategy that is entered with a limit price expressed as a net purchase or sale price for the components of the order. *See* proposed ISE Rule 722(b)(2).

[18] A Complex Order may be designated as an All-or-None Order that is to be executed in its entirety or not at all. An All-Or-None Order may only be entered as an Immediate-or-Cancel Order. *See* proposed ISE Rule 722(b)(3).

[19] A Market or Limit Complex Order may be designated as an Attributable Order as provided in Rule 715(h). *See* proposed ISE Rule 722(b)(5).

[20] A Customer Cross Complex Order is comprised of a Priority Customer Complex Order to buy and a Priority Customer Complex Order to sell at the same price and for the same quantity. Such orders will trade in accordance with Supplementary Material .08(d) to this Rule 722. *See* proposed ISE Rule 722(b)(6).

[21] A Complex Options Order may be entered as a Qualified Contingent Cross Order, as defined in Rule 715(j). Qualified Contingent Cross Complex Orders will trade in accordance with Supplementary Material .08(e) to this Rule 722. *See* proposed ISE Rule 722(b)(7).

[22] A Complex Order may be designated as a Day Order that if not executed, expires at the end of the day on which it was entered. *See* proposed ISE Rule 722(b)(8).

[23] A Complex Order may be designated as a Fill-or-Kill Order that is to be executed in its entirety as soon as it is received and, if not so executed, cancelled. *See* proposed ISE Rule 722(b)(9).

[24] A Complex Order may be designated as an Immediate-or-Cancel Order that is to be executed in whole or in part upon receipt. Any portion not so executed is cancelled. *See* proposed ISE Rule 722(b)(10).

[25] An Opening Only Complex Order is a Limit Complex Order that may be entered for execution during the Complex Opening Process described in Supplementary Material .10 to Rule 722. Any portion of the order that is not executed during the Complex Opening Process is cancelled. *See* proposed ISE Rule 722(b)(11).

[26] A Good-Till-Date Complex Order is an order to buy or sell which, if not executed, will be cancelled at the sooner of the end of the expiration date assigned to the Complex Order, or the expiration of any individual series comprising the order. *See* proposed ISE Rule 722(b)(12).

[27] A Good-Till-Cancel Complex Order is an order to buy or sell that remains in force until the order is filled, canceled or any series of the order expires; provided, however, that a Good-Till-Cancel Complex Order will be cancelled in the event of a corporate action that results in an adjustment to the terms of any series underlying the Complex Order. *See* proposed ISE Rule 722(b)(13).

[28] An Exposure Complex Order is an order that will be exposed upon entry as provided in Supplementary Material .01 to Rule 722 if eligible, or entered on the complex order book if not eligible. Any unexecuted balance of an Exposure Complex Order remaining upon the completion of the exposure process will be entered on the complex order book. *See* proposed ISE Rule 722(b)(14).

[29] An Exposure Only Complex Order is an order that will be exposed upon entry as provided in Supplementary Material .01 to Rule 722 if eligible, or cancelled if not eligible. Any unexecuted balance of an Exposure Only Complex Order remaining upon the completion of the exposure process will be cancelled. *See* proposed ISE Rule 722(b)(15).

[30] A Complex QCC with Stock Order is a Qualified Contingent Cross Complex Order, as defined in Rule 722(b)(7), entered with a stock component to be communicated to a designated broker-dealer for execution pursuant to Supplementary Material .08(f) to Rule 722. *See* proposed ISE Rule 722(b)(16).

[31] *See* Notice, 83 FR at 31785.

[32] Proposed ISE Rule 722(b)(4) provided that: A Limit Complex Order may be designated as a Reserve Order that contains both a displayed portion and a non-displayed portion. (i) Both the displayed and non-displayed portions of a Reserve Complex Order are available for potential execution against incoming marketable orders or quotes. A non-marketable Reserve Complex Order will rest on the complex order book. (ii) The displayed portion of a Reserve Complex Order shall be ranked at the specified limit price and the time of order entry. (iii) The displayed portion of a Reserve Complex Order will trade in accordance with Rule 722(d). (iv) When the displayed portion of a Reserve Complex Order is decremented, either in full or in part, it shall be refreshed from the non-displayed portion of the resting Reserve Complex Order. If the displayed portion is refreshed in part, the new displayed portion shall include the previously displayed portion. Upon any refresh, the entire displayed portion shall be ranked at the specified limit price and obtain a new time stamp, *i.e.,* the time that the new displayed portion of the order was refreshed. The new displayed portion will trade in accordance with Rule 722(d). (v) The initial non-displayed portion of a Reserve Complex Order rests on the complex order book and is ranked based on the specified limit price and time of order entry. Thereafter, non-displayed portions, if any, always obtain the same time stamp as that of the new displayed portion in subparagraph (iv) above. The non-displayed portion of any Reserve Complex Order is available for execution only after all displayed interest on the complex order book has been executed. Thereafter, the non-displayed portion of any Reserve Complex Order will trade in accordance with Rule 722(d). (vi) Only the displayed portion of a Reserve Complex Order is eligible to be exposed for price improvement pursuant to Rule 722(d)(1) and Supplementary Material .01 to Rule 722.

[33] *See* Amendment No. 1. In connection with this change, the proposal deletes references to Reserve

Continued

ISE will continue to offer Reserve Orders in the single leg order book.[34] ISE states that it does not receive a high volume of Reserve Complex Orders and believes that it is not necessary to offer Reserve Complex Orders because there is no great demand for this order type.[35] ISE notes that it offers a variety of order types to its market participants and does not believe that discontinuing Reserve Complex Orders will disadvantage market participants when they submit Complex Orders.[36] In addition, ISE states that other options exchanges do not offer Reserve Complex Orders.[37] ISE will issue an Options Trader Alert to members indicating the date when Reserve Complex Orders will no longer be offered.[38]

C. Trading of Complex Orders and Quotes

Proposed ISE Rule 722(c) (formerly ISE Rule 722(b)) states that complex strategies will be subject to all other ISE rules that pertain to orders and quotes generally, except as otherwise provided in ISE Rule 722.

1. Minimum Increments

Bids and offers for Complex Options Strategies may be expressed in $0.01 increments, and the option(s) legs of Complex Options Strategies, Stock-Option Strategies, and Stock-Complex Strategies may be executed in $0.01 increments, regardless of the minimum increments otherwise applicable to the individual options legs of the order.[39] Bids and offers for Stock-Option Strategies or Stock-Complex Strategies may be expressed in any decimal price determined by ISE, and the stock leg of a Stock-Option Strategy or Stock-Complex Strategy may be executed in any decimal price permitted in the equity market.[40] ISE states that smaller minimum increments are appropriate for Complex Orders that contain a stock component because the stock component may trade at finer decimal increments permitted by the equity market.[41] ISE notes that even with the flexibility provided in proposed ISE Rule 722(c)(1), the individual options and stock legs of a Complex Order must trade in increments allowed by the Commission in the options and equities markets.[42]

2. Complex Order Priority

The proposal revises the Complex Order priority provisions in current ISE Rule 722(b)(2) (renumbered ISE Rule 722(c)(2)) to make several non-substantive clarifying changes, including re-formatting the rule into three paragraphs and incorporating new defined terms into the rule text.[43] As described more fully in the Notice, under proposed ISE Rule 722(c)(2), the legs of a complex strategy with multiple options legs (*i.e.,* Complex Options Strategies and Stock-Complex Strategies with more than one options component) may be executed at the same price as bids and offers on ISE for the individual series so long as there are no Priority Customer Orders on ISE at those prices.[44] If one options leg of such a strategy improves upon the best price available on the Exchange, then the other leg(s) of the complex strategy may trade at the same price as Priority Customer interest.[45] The option leg of a Stock-Option Strategy may be executed at the same price as bids and offers on ISE for the individual series established by Professional Orders and market maker quotes, but not at the same price as Priority Customer Orders for the individual series.[46] Proposed ISE Rule 722(c)(2) also states that complex strategies will not be executed at prices inferior to the best net price achievable from the best ISE bids and offers for the individual legs.[47]

3. Complex Order Executions

The proposal renumbers ISE Rule 722(b)(3) as ISE Rule 722(d) and, for clarity, states that complex strategies are not executable unless all of the terms of the strategy can be satisfied and the options legs can be executed at prices that comply with the provisions of proposed ISE Rule 722(c)(2).[48] In addition, proposed ISE Rule 722(d) more clearly reflects the sequence in which complex strategies are processed. First, eligible Complex Orders are exposed for price improvement for a period of up to one second as provided in ISE Rule 722, Supplementary Material .01.[49] Second, Complex Orders are matched against other interest in the Complex Order Book, if possible.[50] However, executable Complex Orders will execute against Priority Customer interest on the single leg book at the same price before executing against the Complex Order Book.[51] Thus, Priority Customer Orders on the single leg order book will retain priority and will execute prior to any other Complex Order or non-Priority Customer single leg interest at the same price.[52] Third, Complex Orders are executed against bids and offers on ISE for the individual series, if possible.[53]

The proposal also adds new ISE Rule 722(d)(4), which indicates that, similar to the treatment of orders in the regular market, complex strategies that are not executable may rest on the Complex Order Book until they become executable.[54] The proposal retains, without substantive changes, provisions in current ISE Rule 722(b)(3) that specify the manner in which bids and offers at the same price on the Complex Order Book may be allocated and certain restrictions on Complex Order executions against leg market interest.[55]

4. Complex Order Exposure Process

Current ISE Rule 722(b)(3)(iii) provides that Complex Orders marked for price improvement Complex orders will be exposed on the Complex Order Book for a period of up to one second before being automatically executed against pre-existing interest to provide

Complex Orders in the following proposed rules: Proposed ISE Rule 722(b)(4); proposed ISE Rule 722(c)(2)(iv); proposed ISE Rule 722, Supplementary Material .11(vi); and proposed ISE Rule 722, Supplementary Material .12(b).

[34] *See id.*

[35] *See id.*

[36] *See id.*

[37] *See id.*

[38] ISE states that it will notify members in October of the anticipated discontinuation of Reserve Complex Orders in 2018. *See id.*

[39] *See* proposed ISE Rule 722(c)(1).

[40] *See id.* ISE will communicate the minimum increment for Stock-Option Strategies and Stock-Complex Strategies to members via Options Trader Alert. *See* Notice, 83 FR at 31786, n. 10.

[41] *See* Notice, 83 FR at 31786.

[42] *See id.* The proposal makes corresponding changes to ISE Rule 722, Supplementary Material .07(b). ISE Rule 722, Supplementary Material .07(b), as proposed to be amended, states that the System will reject orders and quotes for a complex strategy where all legs are to buy if entered at a price that is less than the minimum net price, which is calculated as the sum of the ratio on each leg of the complex strategy multiplied by the minimum increment applicable to that leg pursuant to Rule 722(c)(1). ISE notes that the revised rule reflects that the stock leg(s) of a Stock-Option or Stock-Complex Strategy may be entered in any decimal price determined by ISE. For example, an order to buy a share of stock and two call options would have a minimum price of $0.0201—*i.e.,* $0.02 for two options legs and $0.0001 for the stock leg. *See* Notice, 83 FR at 31786. The proposal also amends ISE Rule 710 to reference the quoting and trading increments for Complex Strategies specified in proposed ISE Rule 722(c)(1).

[43] *See* Notice, 83 FR at 31786–7.

[44] *See* Notice, 83 FR at 31786. Pursuant to ISE Rules 100(a)(49) and (50), a Priority Customer Order is an order for the account of a person or entity that (i) is not a broker or dealer in securities; and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See id.* at 3178 6, n. 12.

[45] *See* Notice, 83 FR at 31786 and proposed ISE Rule 722(c)(2).

[46] *See id.* at 31786–7 and proposed ISE Rule 722(c)(2).

[47] *See* Amendment No. 1.

[48] *See* Amendment No. 1.

[49] *See* proposed ISE Rule 722(d)(1).

[50] *See* proposed ISE Rule 722(d)(2).

[51] *See id.* and Amendment No. 1.

[52] *See id.*

[53] *See* proposed ISE Rule 722(d)(2).

[54] *See* Notice, 83 FR at 31787.

[55] *See* proposed ISE Rules 722(d)(2) and (3).

an opportunity for market participants to enter contra-side Complex Orders that provide price improvement. At the end of the display period, contra-side orders are executed in price priority and in time priority at the same price. The proposal replaces this provision with proposed ISE Rule 722, Supplementary Material .01, which describes an auction process for Complex Orders. Under proposed ISE Rule 722, Supplementary Material .01, a member may designate for exposure a Complex Order that improves upon the best price for the same complex strategy on the Complex Order Book.[56] Market participants may enter Exposure Complex Orders or Exposure Only Complex Orders.[57] Upon entry of an eligible Complex Order, ISE will send a broadcast message that includes net price or at market, size, and side, and Members will be able to enter Responses with the prices and sizes at which they are willing to participate in the execution of the Complex Order.[58] During the exposure period, ISE will broadcast the best Response price and the aggregate size of Responses available at that price.[59] The exposure period will end immediately upon receipt of certain unrelated Complex Orders for the same complex strategy,[60] or if a trading halt is initiated in any series underlying the Complex Order during the exposure period.[61] At the end of the exposure period, if the Complex Order still improves upon the best price for the complex strategy on the same side of the market, the Complex Order will be automatically executed to the greatest extent possible pursuant to proposed ISE Rule 722(d)(2)–(3), taking into consideration: (i) Bids and offers on the Complex Order Book, including interest received during the exposure period, (ii) bids and offers on ISE for the individual options series, including interest received during the exposure period, and (iii) Responses received during the exposure period, provided that when allocating pursuant to proposed ISE Rule 722(d)(2)(iii), Responses are allocated pro-rata based on size.[62] Any unexecuted balance will be placed on the Complex Order Book (or cancelled in the case of an Exposure Only Complex Order).[63]

5. Trade Value Allowance

The Trade Value Allowance provided in proposed ISE Rule 722, Supplementary Material .09 is a functionality that allows Stock-Option Strategies and Stock-Complex Strategies to trade outside of their expected notional trade value by a specified amount (the ''Trade Value Allowance'').[64] ISE states that after calculating the appropriate options match price for a Stock-Option or Stock-Complex Order expressed in a valid one cent increment, its trading system calculates the corresponding stock match price rounded to the increment supported by the equity market.[65] In a small subset of cases, this rounding may result in a small difference between the expected notional value of the trade and the actual trade value.[66] ISE states that its members generally prefer not to forgo an execution for their Stock-Option Strategies and Stock Complex Strategies when there is a Trade Value Allowance because the amount of the rounding is miniscule compared to the total value of the trade.[67] Members may opt out of the Trade Value Allowance if they do not want their orders to be executed when there is a Trade Value Allowance of any amount.[68] In those cases, ISE will strictly enforce the net price marked on the order.[69]

The amount of Trade Value Allowance permitted may be determined by the member, or a default value determined by ISE and announced to members.[70] However, any amount of Trade Value Allowance is permitted for an order executed in an auction pursuant to ISE Rule 722, Supplementary Material .08 that does not trade solely with its contra-side order.[71] ISE notes that its auction mechanisms provide an opportunity for market participants to respond with better priced interest that could execute against an Agency Order.[72] In the interest of maintaining a fair and competitive market, ISE believes that it is appropriate to ensure that crosses entered into an auction mechanism that are broken up due to better priced interest are actually executed against such better priced interest, and are not restricted from trading to due to the Trade Value Allowance settings of one or more members.[73] Otherwise, an Agency Order in an auction mechanism could be forced to forgo a guaranteed execution with the negotiated contra-side party without the benefit of trading at a better price with other market participants.[74] Because the Trade Value Allowance is the result of a rounding error, ISE believes that any amount of error allowed in these circumstances would be miniscule compared to the value of the trade.[75]

D. Complex Opening and Re-Opening Process and Complex Uncrossing Process

After each of the individual component legs have opened, or reopened following a trading halt, Complex Options Strategies will be opened pursuant to the Complex Opening Price Determination described in proposed ISE Rule 722, Supplementary Material .11, and Stock-Option Strategies and Stock-Complex Strategies will be opened pursuant to the Complex Uncrossing Process described in proposed ISE Rule 722, Supplementary Material .12(b).[76]

1. Complex Opening and Re-Opening Process

ISE opens Complex Options Strategies in an opening process that attempts to execute Complex Orders and quotes on the Complex Order Book at a single price that is within Boundary Prices that

[56] *See* proposed ISE Rule 722, Supplementary Material .01(a). Incoming orders will not be eligible to be exposed if there are market orders on the Complex Order Book on the same side of the market for the same complex strategy. *See id.*

[57] *See* notes 28 and 29, *supra.*

[58] *See* proposed ISE Rule 722, Supplementary Material .01(b). Responses are only executable against the Complex Order with respect to which they are entered, can be modified or withdrawn at any time prior to the end of the exposure period, and will be considered up to the size of the Complex Order being exposed. At the conclusion of the exposure period, any unexecuted balance of a Response will be cancelled automatically. *See* proposed ISE Rule 722, Supplementary Material .01(b)(i).

[59] *See id.*

[60] The exposure period for a Complex Order will end immediately: (A) Upon the receipt of a Complex Order or quote for the same complex strategy on either side of the market that is marketable against the Complex Order Book or bids and offers for the individual legs; (B) upon the receipt of a non-marketable Complex Order or quote for the same complex strategy on the same side of the market that would cause the price of the exposed Complex Order to be outside of the best bid or offer for the same complex strategy on the Complex Order Book; or (C) when a resting Complex Order for the same complex strategy becomes marketable against interest on the Complex Order Book or bids and offers for individual legs of the same complex strategy.

[61] *See* proposed ISE Rule 722, Supplementary Material. 01(d).

[62] *See* proposed ISE Rule 722, Supplementary Material. 01(c) and Amendment No. 1.

[63] *See id.*

[64] The Trade Value Allowance is the percentage difference between the expected notional value of a trade and the actual notional value of the trade. *See* proposed ISE Rule 722, Supplementary Material .09.

[65] *See* Notice, 83 FR at 31793.

[66] *See id.*

[67] *See id.*

[68] *See id.*

[69] *See id.*

[70] *See* proposed ISE Rule 722, Supplementary Material .09.

[71] *See id.*

[72] *See* Amendment No. 1.

[73] *See id.*

[74] *See id.*

[75] *See id.*

[76] *See* proposed ISE Rule 722, Supplementary Material .10. The Complex Opening Process is described in greater detail in the Notice, 83 FR at 31793–5.

are constrained by the NBBO for the individual legs.[77] Bids and offers for the individual legs of a complex strategy are not eligible to participate in the Complex Opening Price Determination, although they may participate in the Complex Uncrossing Process.[78] If the best bid for a complex strategy does not lock or cross the best offer, there will be no trade in the Complex Opening Price Determination and the complex strategy will open pursuant to the Complex Uncrossing Process described in ISE Rule 722, Supplementary Material .12(b).[79]

If the best bid for a complex strategy locks or crosses the best offer, the system will calculate the Potential Opening Price by identifying the price(s) at which the maximum number of contracts can trade (''maximum quantity criterion'') taking into consideration all eligible interest.[80] The proposal also provides a method for determining the Potential Opening Price when two or more Potential Opening Prices would satisfy the maximum quantity criterion.[81] If the Potential Opening Price is at or within the Boundary Prices, the Potential Opening Price becomes the Opening Price.[82] If the Potential Opening Price is not at or within the Boundary Prices, the Opening Price will be the price closest to the Potential Opening Price that satisfies the maximum quantity criteria without leaving unexecuted contracts on the bid or offer side of the market at that price and is at or within the Boundary Prices.[83] If the bid Boundary Price is higher than the offer Boundary Price, or if no valid Opening Price can be found at or within the Boundary Prices, there will be no trade in the Complex Opening Price Determination and the complex strategy will open pursuant to the Complex Uncrossing Process described in proposed Supplementary Material .12(b) to Rule 722.[84]

When an execution is possible during the Complex Opening Price Determination, the system gives priority first to Market Complex Orders, then to resting Limit Complex Orders and quotes on the Complex Order Book, with priority given to better priced interest.[85] The allocation provisions of proposed ISE Rule 722(d)(2) apply with respect to Complex Orders and quotes at the same price.[86]

If the Complex Order Book remains locked or crossed following the process described in proposed ISE Rule 722, Supplementary Material .12(d)(i)–(v), the system will process any remaining Complex Orders and quotes, including Opening Only Complex Orders, in accordance with the Complex Uncrossing Process described in proposed ISE Rule 722, Supplementary Material .12(b).[87] ISE believes that it is appropriate to open with a Complex Uncrossing Process when the Complex Order Book is not executable in the Complex Opening Price Determination because the Complex Uncrossing Process supports the trading of additional interest and will thereby provide another opportunity for Complex Orders and quotes to be executed in the Complex Opening Process.[88] ISE notes that there may be additional interest on the Complex Order Book that could trade, for example, by legging to access liquidity on the regular order book.[89] In addition, ISE notes that trades during the Complex Uncrossing Process are not constrained by the NBBO for the individual legs and can instead trade at prices permitted under ISE Rule 722, Supplementary Material .07, which allows the legs of a complex strategy to trade through the NBBO for the individual legs by a configurable amount.[90] ISE therefore continues the opening process by performing an uncrossing if the Complex Opening Price Determination fails to discover an appropriate execution price (for example, if no valid Opening Price can be found at or within the Boundary Prices) or where there continues to be interest that is locked or crossed after Complex Orders and quotes are executed in the Complex Opening Price Determination.[91]

2. Complex Uncrossing Process

The Complex Uncrossing Process is used during the Complex Opening Process, as described above, and during regular trading when a resting Complex Order or quote that is locked or crossed with other interest becomes executable.[92] During the Complex Uncrossing Process, ISE's system identifies the oldest Complex Order or quote among the best priced bids and offers on the Complex Order Book and matches that order or quote pursuant to proposed ISE Rule 722(d)(2)–(3) with resting contra-side interest on the Complex Order Book and, for Complex Orders, bids and offers for the individual legs of the complex strategy.[93] This process is repeated until the Complex Order Book is no longer executable.[94]

ISE states that the Complex Uncrossing Process provides an efficient

[77] *See* Notice, 83 FR at 31793. The system calculates Boundary Prices at or within which Complex Orders and quotes may be executed during the Complex Opening Price Determination based on the NBBO for the individual legs; provided that, if the NBBO for any leg includes a Priority Customer order on the Exchange, the system adjusts the Boundary Prices according to proposed ISE Rule 722(c)(2). *See* proposed ISE Rule 722, Supplementary Material .11(d)(i).

[78] *See* proposed ISE Rule 722, Supplementary Material .11(b) and (d)(vi). ISE states that the Complex Opening Price Determination considers only interest on the Complex Order Book because the process is designed to promote price discovery for the complex strategy. *See* Notice, 83 FR at 31794.

[79] *See* proposed ISE Rule 722, Supplementary Material .11(c).

[80] *See* proposed ISE Rule 722, Supplementary Material .11(d)(ii). Eligible interest during the Complex Opening Price Determination includes Complex Orders and quotes on the Complex Order Book. *See* proposed ISE Rule 722, Supplementary Material .11(b).

[81] When two or more Potential Opening Prices would satisfy the maximum quantity criterion: (A) Without leaving unexecuted contracts on the bid or offer side of the market of Complex Orders and quotes to be traded at those prices, the system takes the highest and lowest of those prices and takes the mid-point; provided that (1) if the highest and/or lowest price described above is through the price of a bid or offer that is priced to not allocate in the Complex Opening Price Determination, the highest and/or lowest price will be rounded to the price of such bid or offer that is priced to not allocate before taking the mid-point, and (2) if the mid-point is not expressed as a permitted minimum trading increment, it will be rounded down to the nearest permissible minimum trading increment; or (B) leaving unexecuted contracts on the bid (offer) side of the market of Complex Orders and quotes to be traded at those prices, the Potential Opening Price is the highest (lowest) executable bid (offer) price. Notwithstanding the foregoing: (C) If there are Market Complex Orders on the bid (offer) side of the market that would equal the full quantity of Complex Orders and quotes on offer (bid) side of the market, the limit price of the highest (lowest) priced Limit Complex Order or quote is the Potential Opening Price; and (D) if there are only Market Complex Orders on both sides of the market, or if there are Market Complex Orders on the bid (offer) side of the market for greater than the total size of Complex Orders and quotes on the offer (bid) side of the market, there will be no trade in the Complex Opening Price Determination and the complex strategy will open pursuant to the Complex Uncrossing Process described in Supplementary Material .12(b) to Rule 722. *See* proposed ISE Rule 722, Supplementary Material .11(d)(iii).

[82] *See* proposed ISE Rule 722, Supplementary Material .12(d)(iv).

[83] *See id.*

[84] *See id.*

[85] *See* proposed ISE Rule 722, Supplementary Material .12(d)(v).

[86] *See id.*

[87] *See* proposed ISE Rule 722, Supplementary Material .12(d)(vi).

[88] *See* Notice, 83 FR at 31794.

[89] *See id.*

[90] *See id.*

[91] *See id.*

[92] *See id.*

[93] *See* proposed ISE Rule 722, Supplementary Material .12(b)(i) and (ii). A Complex Order entered with an instruction that it must be executed at a price that is equal to or better than the NBBO is considered based on its actual limit or market price and not the price of the NBBO for the component legs. *See* proposed ISE Rule 722, Supplementary Material .12(b)(i).

[94] *See* proposed ISE Rule 722, Supplementary Material .12(b)(iii).

and fair way of determining how to execute Complex Orders and quotes when interest that is locked or crossed becomes executable during regular trading.[95] ISE notes that during the trading day there may be Complex Orders and quotes on the Complex Order Book that are locked or crossed with other interest but that are not executable, for example, because the legs cannot be printed at permissible prices.[96] When market conditions change (*e.g.,* the leg markets update) and these Complex Orders or quotes become executable, the Exchange uses the Complex Uncrossing Process to execute Complex Orders or quotes against resting contra-side interest.[97] ISE believes that describing this process in its rules is helpful to members and other market participants because it provides additional information about how Complex Orders and quotes are executed when the Complex Order Book becomes executable.[98]

E. Internalization and Crossing

For clarity, ISE proposes to amend ISE Rule 722 to specify that the requirements of ISE Rules 722(d) and (e) apply to Complex Orders.[99] Proposed ISE Rule 722(c)(3) states that Complex Orders represented as agent may be executed (i) as principal as provided in ISE Rule 717(d), or (ii) against orders solicited from Members and non-member broker-dealers as provided in ISE Rule 717(e). The rule further provides that exposure requirements of ISE Rules 717(d) or (e) must be met on the Complex Order Book unless the order is executed in one of the mechanisms described in proposed Supplementary Material .08 to ISE Rule 722.[100] ISE notes that it has consistently applied the exposure requirement in ISE Rules 717(d) and (e) to the execution of Complex Orders on the Complex Order Book, and that it has provided for the execution of Complex Orders using the Facilitation Mechanism, the Solicited Order Mechanism, and the Price Improvement Mechanism (''PIM'').[101] The proposal replaces current ISE Rules 716, Supplementary Material .08 (describing the execution of Complex Orders in the Facilitation and Solicited Order Mechanisms) and 723, Supplementary Material .09 (describing the execution of Complex Orders in the PIM), with proposed ISE Rules 722, Supplementary Material .08(a), (b), and (c), which describe the execution of Complex Orders in these mechanisms in greater detail.

1. Complex Facilitation Mechanism and Complex Solicited Order Mechanism

Proposed ISE Rule 722, Supplementary Material .08(a) provides that an Electronic Access Member (''EAM'') may use the Complex Facilitation Mechanism to facilitate a block-size Complex Order it represents as agent, and/or a transaction in which the EAM has solicited interest to execute against a block-size Complex Order it represents as agent. Each options leg of a Complex Order entered into the Complex Facilitation Mechanism must meet the minimum contract size requirement in ISE Rule 716(d) (*i.e.,* at least 50 contracts).[102] An EAM must be willing to execute the entire size of Complex Orders entered into the Complex Facilitation Mechanism.[103]

The Complex Solicited Order Mechanism allows an EAM to attempt to execute a Complex Order it represents as agent (the ''Agency Complex Order'') against contra orders that it solicited according to ISE Rule 716(e). Each Complex Order entered into the Solicited Order Mechanism must be designated as all-or-none, and each options leg must meet the minimum contract size requirement contained in ISE Rule 716(e) (*i.e.,* 500 or more contracts).[104] The Complex Facilitation Mechanism and the Complex Solicited Order Mechanism operate in a similar manner, as described below.

Complex Orders must be entered into the Complex Facilitation Mechanism or into the Complex Solicited Order Mechanism at a price that is (A) equal to or better than the best bid or offer on the Complex Order Book on the same side of the market as the Agency Order; and (B) equal to or better than the best net price achievable from the best ISE bids and offers for the individual legs on the same side of the market as the Agency Order; provided that, if there is a Priority Customer order on the best bid or offer for any leg, the order must be entered at an improved price consistent with ISE Rule 722(c)(2).[105] A Complex Order that does not meet these requirements is not eligible for the Complex Facilitation Mechanism or the Complex Solicited Order Mechanism and will be rejected.[106]

Upon the entry of a Complex Order into the Complex Facilitation Mechanism or the Complex Solicited Order Mechanism, ISE will send a broadcast message that includes the net price, side, and size of the Agency Complex Order, and Members will have an opportunity to enter Responses with the net prices and sizes at which they want to participate in the facilitation of the Agency Complex Order.[107] The time given to enter Responses, which ISE will designate via Options Trader Alert, will be no less than 100 milliseconds and no more than one second.[108] Responses are only executable against the Complex Order with respect to which they are entered, and will only be

[95] *See* Notice, 83 FR at 31796.

[96] *See id.*

[97] *See id.* at 31796 and 31799.

[98] *See id.* at 31799.

[99] ISE Rule 717(d) states that Electronic Access Members (''EAMs'') may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second, (ii) the EAM has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer, or (iii) the Member utilizes the Facilitation Mechanism pursuant to Rule 716(d), or (iv) the Member utilizes the Price Improvement Mechanism for Crossing Transactions pursuant to Rule 723. ISE 717(e) states that EAMs may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-member broker-dealers to transact with such orders unless (i) the unsolicited order is first exposed on the Exchange for at least one (1) second, (ii) the Member utilizes the Solicited Order Mechanism pursuant to Rule 716(e), (iii) the Member utilizes the Facilitation Mechanism pursuant to Rule 716(d) or (iv) the Member utilizes the Price Improvement Mechanism for Crossing Transactions pursuant to Rule 723.

[100] *See* proposed ISE Rule 722(c)(3).

[101] *See* Notice, 83 FR at 31789.

[102] *See* proposed ISE Rule 722, Supplementary Material .08(a).

[103] *See id.*

[104] *See* proposed ISE Rule 722, Supplementary Material .08(b). Prior to entering Agency Orders into the Complex Solicited Order Mechanism on behalf of a customer, EAMs must deliver to the customer a written notification informing the customer that its order may be executed using Nasdaq ISE's Solicited Order Mechanism. Such written notification must disclose the terms and conditions contained in ISE Rule 722, Supplementary Material .08(b) and must be in a form approved by the Exchange. *See* proposed ISE Rule 722, Supplementary Material .08(5).

[105] *See* proposed ISE Rule 722, Supplementary Material .08(a)(1)(i) and (ii) and .08(b).

[106] *See* proposed ISE Rules 722, Supplementary Material .08(a)(1) and .08(b)(1). In addition, a Complex Order entered into the Complex Facilitation Mechanism or Complex Solicited Order Mechanism will be rejected if any component of the Complex Order has not opened for trading, or if there is a trading halt in any series underlying the Complex Order. If a trading halt is initiated after the order is entered into the Complex Facilitation Mechanism, the auction will be automatically terminated without execution. *See* proposed ISE Rules 722, Supplementary Material .08(a)(1) and .08(b)(1). The priority rules in proposed ISE Rule 722(c)(2) also may prevent the execution of a Complex Order entered into the Facilitation Mechanism, in which case the transaction will be cancelled. *See* proposed ISE Rule 722, Supplementary Material .08(a)(5)(iv). Similarly, an Agency Complex Order entered into the Solicited Order Mechanism may execute against the solicited Complex Order only if, among other things, there are no Priority Customer Complex Orders or Responses that are priced equal to the proposed execution price. *See* proposed ISE Rule 722, Supplementary Material .08(b)(4)(i)(D).

[107] *See* proposed ISE Rules 722, Supplementary Material .08(a)(3) and .08(b)(3).

[108] *See id.*

considered up to the size of the Complex Order to be facilitated.[109] Responses must be entered in the increments provided in proposed ISE Rule 722(c)(1) at the facilitation price or the proposed net execution price, as applicable, or at a price that is at least one cent better for the Agency Order.[110] Responses will not be visible to other auction participants and can be modified or deleted before the exposure period has ended.[111]

At the end of the period given for the entry of Responses in the Complex Facilitation Mechanism, a facilitation order will be automatically executed as provided in the proposed rule.[112] The proposal also provides a guaranteed allocation for the facilitating EAM,[113] and allows the facilitating EAM to elect to automatically match the net price and size of Complex Orders, Responses, and quotes received during the exposure period up to a specified limit price or without specifying a limit price.[114]

At the end of the period given for the entry of Responses in the Solicited Order Mechanism, an Agency Complex Order will be automatically executed in full pursuant to proposed ISE Rule 722, Supplementary Material .08(b)(4)(i)–(iv), or cancelled.[115] The Agency Complex Order will execute against the Solicited Complex Order or against other interest depending on whether there is insufficient size to execute the Agency Order at an improved net price(s),[116] sufficient Priority Customer interest to execute the entire Agency Complex order at the proposed net execution price,[117] or sufficient size to execute the entire Agency Complex Order at an improved net price(s).[118] The proposed rule also specifies the allocation of interest when the Agency Complex Order executes against interest other than the solicited Complex Order.[119]

2. Complex PIM

The Complex PIM allows an EAM to seek price improvement for a transaction in which an EAM is facilitating a Complex Order it represents as agent, and/or a transaction in which the EAM has solicited interest to execute against a Complex Order it represents as agent (a ''Crossing Transaction'').[120] A Crossing Transaction is comprised of the order the EAM represents as agent (the ''Agency Order'') and a counter-side order for the full size of the Agency Order (the ''Counter-Side Order'').[121] A Complex Order must be entered into the Complex PIM at a price that is better than the best net price (i) available on the Complex Order Book on both sides of the market; and (ii) achievable from the best ISE bids and offers for the individual legs on both sides of the market (an ''improved net price'').[122] A Complex Order that does not satisfy this requirement will be rejected.[123]

[109] *See* proposed ISE Rules 722, Supplementary Material .08(a)(4) and .08(b)(3).

[110] *See id.*

[111] *See* proposed ISE Rules 722, Supplementary Material .08(a)(5) and .08(b)(4).

[112] *See* proposed ISE Rule 722, Supplementary Material .08(a)(5). If an improved net price for the Complex Order being executed can be achieved from Complex Orders, Responses, and quotes on the Complex Order Book and, for Complex Options Orders, the ISE best bids and offers on the individual legs, the facilitation order will be executed against such interest. *See* proposed ISE Rule 722, Supplementary Material .08(a)(5)(iv). If there is insufficient size to execute the entire facilitation order at a better net price, Priority Customer Complex Orders and Responses to buy (sell) at the time the facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at the facilitation price. Professional Complex Orders and Responses, and quotes to buy (sell) at the time the facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at their stated price, thereby providing the Complex Order being facilitated a better price for the number of contracts associated with such higher bids (lower offers). *See* proposed ISE Rule 722, Supplementary Material .08(a)(5)(i).

[113] Proposed ISE Rule 722, Supplementary Material .08(a)(5)(ii) provides that the facilitating EAM will execute at least forty percent (40%) (or such lower percentage requested by the member) of the original size of the facilitation order, but only after better-priced Responses, Complex Orders and quotes, as well as Priority Customer Complex Orders and Responses at the facilitation price, are executed in full. Thereafter, Professional Complex Orders and Responses, and quotes at the facilitation price will participate in the execution of the facilitation order based upon the percentage of the total number of contracts available at the facilitation price that is represented by the size of the Professional Complex Order or Response, or quote.

[114] Proposed ISE Rule 722, Supplementary Material .08(a)(5)(iii) provides that a facilitating EAM may elect to automatically match the net price and size of Complex Orders, Responses and quotes received during the exposure period up to a specified limit price or without specifying a limit price. This election will also automatically match the net price available from the ISE best bids and offers on the individual legs for the full size of the order; provided that with notice to members the Exchange may determine whether to offer this option only for Complex Options Orders, Stock-Option Orders, and/or Stock Complex Orders. If a member elects to auto-match, the facilitating EAM will be allocated its full size at each price point, or at each price point within its limit price if a limit is specified, until a price point is reached where the balance of the order can be fully executed. At such price point, the facilitating EAM will be allocated at least 40% (or such lower percentage requested by the member) of the original size of the facilitation order, but only after Priority Customer Orders and Responses at such price point. Thereafter, Professional Complex Orders and Responses, and quotes at the price point will participate in the execution of the facilitation order based upon the percentage of the total number of contracts available at the facilitation price that is represented by the size of the Professional Complex Order or Response, or quote. An election to automatically match better prices cannot be cancelled or altered during the exposure period.

[115] *See* proposed ISE Rule 722, Supplementary Material .08(b)(4).

[116] If at the time of execution there is insufficient size to execute the entire Agency Complex Order at an improved net price(s) pursuant to ISE Rule 722, Supplementary Material .08(b)(4)(iii), the Agency Complex Order will be executed against the solicited Complex Order at the proposed execution net price so long as, at the time of execution: (A) The execution net price is equal to or better than the best net price achievable from the best ISE bids and offers for the individual legs, (B) the Complex Order can be executed in accordance with ISE Rule 722(c)(2) with respect to the individual legs, (C) the execution net price is equal to or better than the best bid or offer on the Complex Order Book, and (D) there are no Priority Customer Complex Orders or Responses that are priced equal to the proposed execution price. *See* proposed ISE Rule 722, Supplementary Material .08(b)(4)(i).

[117] If there are Priority Customer Complex Orders or Responses on the opposite side of the Agency Complex Order at the proposed execution net price and there is sufficient size to execute the entire size of the Agency Complex Order, the Agency Complex Order will be executed against such interest, and the solicited Complex Order will be cancelled, provided that: (A) The execution net price is equal to or better than the best net price achievable from the best ISE bids and offers for the individual legs, and (B) the Complex Order can be executed in accordance with ISE Rule 722(c)(2) with respect to the individual legs. The aggregate size of all Complex Orders, Responses and quotes and, for Complex Options Orders, the aggregate size available from the best bids and offers for the individual legs, will be used to determine whether the entire Agency Complex Order can be executed pursuant to this paragraph. *See* proposed ISE Rule 722, Supplementary Material .08(b)(4)(ii).

[118] If at the time of execution there is sufficient size to execute the entire Agency Complex Order at an improved net price(s), the Agency Complex Order will be executed at the improved net price(s), and the solicited Complex Order will be cancelled, provided that: (A) The execution net price is equal to or better than the best net price achievable from the best ISE bids and offers for the individual legs, and (B) the Complex Order can be executed in accordance with ISE Rule 722(c)(2) with respect to the individual legs. The aggregate size of all Complex Orders, Responses, and quotes, and the aggregate size available from the best bids and offers for the individual legs for a Complex Options Order, will be used to determine whether the entire Agency Complex Order can be executed at an improved net price(s). *See* proposed ISE Rule 722, Supplementary Material .08(b)(4)(iii).

[119] Proposed ISE Rule 722, Supplementary Material .08(b)(4)(iv) provides that when executing the Agency Complex Order against other interest in accordance with proposed ISE Rule 722, Supplementary Material .08(b)(ii) and (iii), Priority Customer Complex Orders and Responses will be executed first. Professional Complex Orders and Responses, and market maker quotes participate next in the execution of the Agency Complex Order based upon the percentage of the total number of contracts available at the best price that is represented by the size of the Professional Complex Order or Response, or market maker quote. Finally, for Complex Options Orders, bids and offers for the individual legs will be executed pursuant to Rule 713 and the Supplementary Material thereto.

[120] *See* proposed ISE Rule 722, Supplementary Material .08(c).

[121] The Counter-Side Order may represent interest for the Member's own account or interest the Member has solicited from one or more other parties, or a combination of both. *See* proposed ISE Rule 722, Supplementary Material .08(c)(1).

[122] *See* proposed ISE Rule 722, Supplementary Material .08(c)(2).

[123] *See id.* In addition, a Complex Order entered into the Complex PIM will be rejected if any

Upon entry of a Complex Order into the Complex PIM, ISE will broadcast to members a message that includes the net price, side and size of the Agency Complex Order.[124] ISE will designate via Options Trader Alert a time of no less than 100 milliseconds and no more than one second for members to indicate the size and net price at which they want to participate in the execution of the Agency Complex Order (''Improvement Complex Orders'').[125] All members may enter Improvement Complex Orders for their own account or for the account of a Public Customer.[126]

The exposure period for a Complex PIM will automatically terminate (A) at the end of the time period designated by ISE pursuant to ISE Rule 722, Supplementary Material .08(c)(4)(i), (B) upon the receipt of a Complex Order or quote in the same complex strategy on either side of the market that is marketable against the Complex Order Book or bids and offers for the individual legs, or (C) upon the receipt of a non-marketable Complex Order or quote in the same complex strategy on the same side of the market as the Agency Complex Order that would cause the execution of the Agency Complex Order to be outside of the best bid or offer on the Complex Order Book.[127] Although only one Complex PIM may be ongoing at any time for a particular complex strategy, a PIM in a component leg of a complex strategy may run concurrently with a Complex PIM for that strategy.[128]

At the end of the exposure period, the Agency Complex Order will be executed in full at the best prices available, taking into consideration Complex Orders and quotes in the Complex Order Book, Improvement Complex Orders, the Counter-Side Order, and, for Complex Options Orders, the ISE best bids and offers on the individual legs.[129] The Agency Complex Order will receive executions at multiple price levels if there is insufficient size to execute the entire order at the best price.[130] At any net price, Priority Customer interest on the Complex Order Book (*i.e.,* Priority Customer Complex Orders and Improvement Complex Orders) is executed in full before Professional interest (*i.e.,* Professional Complex Orders and Improvement Complex Orders) and market maker quotes on the Complex Order Book.[131] After Priority Customer interest on the Complex Order Book at a given net price, Professional interest and market maker quotes on the Complex Order Book will participate in the execution of the Agency Complex Order based on the percentage of the total number of contracts available at the price represented by the size of that interest.[132] When the Counter-Side Complex Order is at the same net price as Professional interest and market maker quotes on the Complex Order Book, the Counter-Side Complex Order will be allocated the greater of one contract or 40% (or such lower percentage requested by the member) of the initial size of the Agency Complex Order before other Professional interest and market maker quotes on the Complex Order Book are executed.[133]

3. Complex Customer Cross Orders

ISE notes that ISE Rules 717(d) and (e) apply when a member seeks to execute an order it represents as agent against a proprietary order (*i.e.,* a facilitation transaction) or an order the member has solicited from another broker-dealer (*i.e.,* a solicited transaction).[134] Transactions where neither side is for the account of a broker-dealer are not within the scope of ISE Rule 717(d) and (e), and members can enter the buy and sell orders on the limit order book nearly simultaneously.[135] To make the

component of the Complex Order has not opened for trading, or if there is a trading halt in any series underlying the Complex Order. If a trading halt is initiated after the order is entered into the Complex PIM, the auction will be automatically terminated without an execution. *See* ISE Rule 722, Supplementary Material .08(c)(3).

[124] *See* proposed ISE Rule 722, Supplementary Material .08(c)(4).

[125] *See* proposed ISE Rule 722, Supplementary Material .08(c)(4).

[126] *See* proposed ISE Rule 722, Supplementary Material .08(c)(4)(i). An Improvement Complex Order, which is only executable against the Complex Order with respect to which it is entered and will only be considered up to the size of the Agency Complex Order, must be entered in the increments provided in proposed ISE Rule 722(c)(1) at the same price as the Crossing Transaction or at a price that is at least one cent better for the Agency Complex Order. An Improvement Complex Order may not be canceled, but it may be modified to (1) increase the size at the same price, or (2) improve the price of the Improvement Complex Order for any size. Improvement Complex Orders will not be visible to other auction participants. *See* proposed ISE Rules 722, Supplementary Material .08(c)(4)(i)–(iii).

[127] *See* proposed ISE Rule 722, Supplementary Material .08(c)(4)(iv). When a marketable Complex Order on the opposite side of the Agency Complex Order ends the exposure period, it will participate in the execution of the Agency Complex Order at the price that is mid-way between the best counter-side interest and the same side best bid or offer on the Complex Order Book or net price from ISE best bid or offer on individual legs, whichever is better, so that both the marketable Complex Order and the Agency Complex Order receive price improvement. *See* proposed ISE Rule 722, Supplementary Material .04(c)(5)(iv).

[128] *See* proposed ISE Rule 722, Supplementary Material .08(c)(4)(v). A Complex PIM for a complex strategy may be ongoing at the same time as a PIM pursuant to ISE Rule 723 or during an exposure period pursuant to Supplementary Material .02 to ISE Rule 1901 in a component leg(s) of such complex strategy. If a Complex PIM is early terminated pursuant to ISE Rule 722, Supplementary Material .08(c)(4)(iv), and the incoming Complex Order that causes the early termination in the complex strategy is also marketable against a component leg(s) of the complex strategy that is the subject of a concurrent ongoing PIM pursuant to ISE Rule 723 or an exposure period pursuant to Supplementary Material .02 to ISE Rule 1901, then the concurrent Complex PIM and component leg auction(s) are processed in the following sequence: (1) The Complex PIM is early terminated; (2) the component leg auction(s) are early terminated and processed; and (3) legging of residual incoming Complex Order interest occurs. *See* proposed ISE Rule 722, Supplementary Material .08(c)(4)(vi) and Amendment No. 1.

[129] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5). If an improved net price for the Complex Order being executed can be achieved from Complex Orders, Improvement Complex Orders, and quotes on the Complex Order Book and, for Complex Options Orders, the ISE best bids and offers on the individual legs, the Agency Complex Order will be executed against such interest. In addition, the priority provisions in ISE Rule 722(c)(2) will continue to apply and may prevent the execution of a Complex Order entered into the Complex PIM, in which case the transaction will be cancelled. *See* ISE Rule 722, Supplementary Material .08(c)(5)(v).

[130] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5).

[131] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5)(i).

[132] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5)(ii).

[133] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5)(iii). Upon entry of Counter-Side Complex Orders, Members can elect to automatically match the price and size of Complex Orders, Improvement Complex Orders and quotes received on the Complex Order Book during the exposure period up to a specified limit net price or without specifying a limit net price. This election will also automatically match the net price available from the ISE best bids and offers on the individual legs for the full size of the order; provided that with notice to members the Exchange may determine whether to offer this option only for Complex Options Orders, Stock-Option Orders, and/or Stock Complex Orders. If a member elects to auto-match, the Counter-Side Complex Order will be allocated its full size at each price point, or at each price point within its limit net price if a limit is specified, until a price point is reached where the balance of the order can be fully executed. At such price point, the Counter-Side Complex Order shall be allocated the greater of one contract or 40% (or such lower percentage requested by the member) of the original size of the Agency Complex Order, but only after Priority Customer Complex Orders and Improvement Complex Orders at such price point are executed in full. Thereafter, all Professional Complex Orders and Improvement Complex Orders, and quotes at the price point will participate in the execution of the Agency Complex Order based upon the percentage of the total number of contracts available at the price that is represented by the size of the Professional Complex Order or Improvement Complex Order, or quote on the complex order book. *See id.*

[134] *See* Notice, 83 FR at 31790.

[135] *See id.* ISE notes that ISE Rule 717, Supplementary Material .01 prohibits members from entering into arrangements designed to circumvent the exposure requirements for facilitation transactions. Accordingly, it would be a violation of ISE Rule 717(d) for a member to effectively facilitate an order by providing an opportunity for a customer or other person (including affiliates) to regularly execute against

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execution of such customer orders more efficient, the ISE developed Customer Cross Orders as a way to enter opposing customer orders using a single order type.[136]

Proposed ISE Rule 722, Supplementary Material .08(d) addresses the application of Customer Cross Orders to Complex Orders.[137] Proposed ISE Rule 722, Supplementary Material .08(d) states that Complex Customer Cross Orders will be automatically executed upon entry so long as: (i) The price of the transaction is at or within the best bid and offer for the same complex strategy on the Complex Order Book; (ii) there are no Priority Customer Complex Orders for the same strategy at the same price on the Complex Order Book; and (iii) the options legs can be executed at prices that comply with the provisions of ISE Rule 722(c)(2). The proposed rule further states that Complex Customer Cross Orders will be rejected if they cannot be executed, and that ISE Rule 717, Supplementary Material .01 applies to Complex Customer Cross Orders.[138]

4. Complex Qualified Contingent Cross Orders

Proposed ISE Rule 722, Supplementary Material .08(e) states that Complex Options Orders may be entered as Qualified Contingent Cross Orders, as defined in ISE Rule 715(j).[139] Proposed ISE Rule 722, Supplementary Material .08(e) states that Complex Qualified Contingent Cross Orders (''Complex QCC Orders'') will be automatically executed upon entry so long as: (i) The price of the transaction is at or within the best bid and offer for the same complex options strategy on the Complex Order Book; (ii) there are no Priority Customer Complex Options Orders for the same strategy at the same price on the Complex Order Book; and (iii) the options legs can be executed at prices that (A) are at or between the NBBO for the individual series, and (B) comply with the provisions of ISE Rule 722(c)(2)(i), provided that no legs of the Complex Options Order can be executed at the same price as a Priority Customer Order on the Exchange in the individual options series. Proposed ISE Rule 722, Supplementary Material .08(e) further provides that Complex QCC Orders will be rejected if they cannot be executed, that they may be entered in one cent increments, and that each leg of a Complex Options Order must meet the 1,000 contract minimum size requirement for Qualified Contingent Cross Orders. ISE notes that in executing Complex QCC Orders, Priority Customer Orders on the Complex Order Book and Priority Customer Orders on ISE for the individual options series are protected.[140]

5. Complex QCC With Stock Orders

Proposed ISE Rule 722, Supplementary Material .08(f) describes the processing of Complex QCC with Stock Orders.[141] ISE notes that because a Complex QCC Order represents one component of a qualified contingent trade, each Complex QCC Order must be paired with a stock transaction.[142] ISE further notes that members must separately execute the stock component of a regular Complex QCC Order.[143] By contrast, when a member enters a Complex QCC with Stock Order, ISE will attempt to facilitate the execution of the stock component in addition to the options component.[144] When a member enters a Complex QCC with Stock Order, a Complex QCC Order is entered ISE.[145] If the Complex QCC Order is executed, ISE will automatically communicate the stock component to the member's designated broker-dealer for execution.[146] If the Complex QCC Order cannot be executed, the entire Complex QCC with Stock Order, including both the stock and options components, is cancelled.[147] ISE Rules 721, Supplementary Material .01–.03 apply to the entry and execution of Complex QCC with Stock Orders.[148] ISE states that Complex QCC with Stock Orders assist members in maintaining compliance with Exchange rules regarding the execution of the stock component of qualified contingent trades, and help maintain an audit trail for surveillance of members for compliance with such rules.[149]

F. Concurrent Auctions

1. Concurrent Complex Order and Single Leg Auctions

Proposed ISE Rule 722, Supplementary Material .08(h) provides that an auction in the Block Order Mechanism, Facilitation Mechanism, Solicited Order Mechanism, or PIM, or an exposure period as provided in ISE Rule 1901, Supplementary Material .02, for an option series may occur concurrently with a Complex Order Exposure Auction, Complex Facilitation auction, Complex Solicited Order auction, or Complex PIM for a Complex Order that includes that series.[150] To the extent that there are concurrent Complex Order and single leg auctions involving a specific option series, each auction will be processed sequentially based on the time the auction commenced.[151]

2. Limitation on Concurrent Complex Strategy Auctions

In conjunction with ISE's migration to the INET platform, ISE filed a proposal in 2017 to delay the re-introduction of

agency orders handled by the member immediately upon their entry on the Exchange. *See id.* at n. 35.

[136] *See* Notice, 83 FR at 31790. *See also* Securities Exchange Act Release No. 60253 (July 7, 2009), 74 FR 34063 (July 14, 2009) (notice of filing and immediate effectiveness of File No. SR–ISE–2009–34).

[137] *See* Notice, 83 FR at 31790.

[138] *See* footnote 135, *supra.*

[139] ISE Rule 715(j) defines a Qualified Contingent Cross Order as an order comprised of an originating order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in ISE Rule 715, Supplementary Material .01, coupled with a contra-side order or orders totaling an equal number of contracts. ISE Rule 715, Supplementary Material .01 states that a qualified contingent trade is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

[140] *See* Notice, 83 FR at 31791.

[141] As noted above, a Complex QCC with Stock Order is a Complex QCC Order, as defined in Rule 722(b)(7), entered with a stock component to be communicated to a designated broker-dealer for execution pursuant to proposed ISE Rule 722, Supplementary Material .08. *See* proposed ISE Rule 722(b)(16).

[142] *See* Notice, 83 FR at 31792.

[143] *See id.*

[144] *See id.*

[145] *See* proposed ISE Rule 722, Supplementary Material .08(f)(1).

[146] *See* proposed ISE Rule 722, Supplementary Material .08(f)(2).

[147] *See* proposed ISE Rule 722, Supplementary Material .08(f)(3).

[148] *See* proposed ISE Rule 722, Supplementary Material .08(f)(4).

[149] *See* Notice, 83 FR at 31792. Members that execute the options component of a qualified contingent trade entered as a QCC with Stock Order remain responsible for the execution of the stock component if they do not receive an execution from their designated broker-dealer. *See* ISE Rule 721, Supplementary Material .03.

[150] *See* Amendment No. 1.

[151] *See* Amendment No. 1. At the time an auction concludes, including when it concludes early, the auction will be processed pursuant to ISE Rules 716(b), (c), (d), or (e), or 723 or Supplementary Material .02 to Rule 1901, as applicable, for the single option, or pursuant to proposed ISE Rules 722, Supplementary Material .01, or .08(a), (b), or (c), as applicable, for the Complex Order, except as provided for in proposed Supplementary Material .08(c)(4)(vi) to ISE Rule 722. *See id.*

functionality on ISE that permitted concurrent Complex Order auctions in the same complex strategy.[152] ISE subsequently extended its delay of the re-introduction of this functionality for an additional year, until April 17, 2019.[153] ISE states that it has no immediate plans to re-introduce the functionality.[154] Accordingly, ISE proposes to delete from ISE Rule 722 language indicating that ISE will recommence concurrent Complex Order auctions or before April 17, 2019.[155] In addition, ISE proposes to adopt ISE Rule 722, Supplementary Material .08(g), which provides that only one Exposure Auction, Complex PIM, Complex Facilitation Mechanism auction, or Complex Solicited Order Mechanism auction will be ongoing at any given time in a complex strategy, and states that such auctions will not queue or overlap in any manner.[156]

ISE states that it has not offered concurrent auctions in the same complex order strategy since 2017, and notes that no member has complained or expressed concern about the absence of the functionality.[157] In the April 2018 Notice, ISE stated that it was rare for multiple auctions in a complex strategy to be ongoing at a particular time, particularly due to the decrease in ISE's auction timers to 100 milliseconds.[158] ISE stated that prior to the migration to the INET platform concurrent auctions in a complex options strategy only occurred approximately 0.5% of the time that an auction ran on the Exchange.[159] ISE believes that the absence of the concurrent Complex Order functionality will have an insignificant impact on members.[160] ISE states that a member that has auction-eligible interest to execute when another Complex Order auction is ongoing can either re-submit that order to the Exchange after the auction has concluded, or submit the order to another options market that provides similar auction functionality.[161] In this regard, ISE notes that its market data feeds provide information to members about when a Complex Order auction is ongoing, and members can therefore use this information to make appropriate routing decisions based on applicable market conditions.[162] ISE notes that other options markets do not offer concurrent Complex Order auctions in a strategy.[163]

G. Stock-Option and Stock-Complex Orders

Proposed ISE Rule 722, Supplementary Material .13 provides requirements for Stock-Option and Stock-Complex Orders. The proposed rule allows members to submit only Stock-Option and Stock-Complex Orders and quotes that comply with the QCT Exemption from Rule 611(a) of Regulation NMS, and members submitting these orders and quotes represent that they comply with the QCT Exemption. In addition, proposed ISE Rule 722, Supplementary Material .13 requires that the stock leg of a Stock-Option Order be marked ''buy,'' ''sell,'' ''sell short,'' or ''sell short exempt'' in compliance with Regulation SHO under the Exchange Act.

H. Additional Changes

1. Market Maker Quotes

As part of the transition to the INET platform, ISE has delayed until April 26, 2019, the re-introduction of the functionality that allows market makers to enter quotes in certain symbols for complex strategies on the Complex Order Book.[164] ISE states that prior to the INET transition, quoting in the Complex Order Book was available in a subset of the options classes.[165] Accordingly, ISE proposes to amend ISE Rule 722, Supplementary Material .03 to indicate that complex quoting will be available only in options classes selected by the Exchange and announced to members via Options Trader Alert.[166] ISE notes that market makers that quote in the Complex Order Book must enter certain risk parameters pursuant to ISE Rule 722, Supplementary Material .04 (''Market Maker Speed Bump'').[167] In connection with proposed changes to the defined terms relating to Complex Orders, as described above, ISE proposes to amend ISE Rule 722, Supplementary Material .04 to clarify that the Market Maker Speed Bump applies to Complex Options Strategies and not to Stock-Option Strategies or Stock-Complex Strategies.[168]

2. Price Limits for Complex Orders and Quotes

ISE Rule 722, Supplementary Material .07(a) establishes a risk protection that limits the amount by which the legs of a complex strategy may be executed at prices inferior to the prices available on other exchanges trading the same options series. ISE proposes to amend ISE Rule 722, Supplementary Material .07(a) to include a reference to the stock leg of Stock-Option Strategies and Stock-Complex Strategies.[169] Proposed ISE Rule 722, Supplementary Material .07(a) will state, in part, that the System will not permit the legs of a complex strategy to trade through the NBBO for the series or any stock component by a configurable amount calculated as the lesser of (i) an absolute amount not to

[152] INET is the proprietary core technology utilized across Nasdaq's global markets and utilized on The Nasdaq Options Market LLC, Nasdaq PHLX LLC, and Nasdaq BX, Inc. *See* Amendment No. 1. *See also* Securities and Exchange Act Release No. 80525 (April 25, 2017), 82 FR 20405 (May 1, 2017) (notice of filing and immediate effectiveness of SR–ISE–2017–33).

[153] *See* Amendment No. 1. *See also* Securities and Exchange Act Release No. 83101 (April 25, 2018), 83 FR 19130 (May 1, 2018) (notice of filing and immediate effectiveness of SR–ISE–2018–40) (''April 2018 Notice'').

[154] *See* Amendment No. 1.

[155] *See id.* In the event that ISE wishes to implement concurrent Complex Order auctions in the future, it will file a proposed rule change with the Commission to do so. *See id.*

[156] *See* Amendment No. 1. Proposed ISE Rule 722, Supplementary Material .08(g) states that ISE will not initiate an Exposure Auction, Complex PIM, Complex Facilitation Mechanism auction, or Complex Solicited Order Mechanism auction in a complex strategy while another Exposure Auction, Complex PIM, or Complex Solicited Order Mechanism auction in that Complex Strategy is ongoing. If a Complex PIM auction, Complex Facilitation Mechanism auction, or Complex Solicited Order Mechanism auction for a Complex Strategy has been initiated, an Exposure Auction for that Complex Strategy will not be initiated, and an Exposure Only Complex Order for the Complex Strategy will be cancelled back to the member. An Exposure Order for the Complex Strategy will be processed as an order that is not marked for price improvement.

[157] *See* Amendment No. 1.

[158] *See* April Notice, 82 FR at n. 10 (citing Securities Exchange Act Release No. 79733 (January 4, 2017), 82 FR 3055 (January 10, 2017) (SR–ISE–2016–26) (permitting the Exchange to determine auction timers for PIM, Facilitation, and Solicitation within a range of 100 milliseconds and one second)). ISE noted that each of these auction timers, as well as the auction timer for exposure auctions, was currently set to 100 milliseconds. *See also* Amendment No. 1.

[159] *See* April Notice, 82 FR at 19131. *See also* Amendment No. 1.

[160] *See* Amendment No. 1.

[161] *See id.*

[162] *See id.*

[163] ISE states that Nasdaq Phlx, LLC does not allow the initiation of a Complex Order Live Auction when there is a Price Improvement XL auction already ongoing in the strategy pursuant to Phlx Rule 1098(e)(2). Similarly, Miami International Securities Exchange LLC has the ability to limit the frequency of Complex Auctions by establishing a minimum time period between such auctions pursuant to MIAX Rule 518(d)(2). *See id.*

[164] *See* ISE Rule 722, Supplementary Material .03. *See also* Securities Exchange Act Release Number 83001 (April 5, 2018), 83 FR 15653 (April 11, 2018) (notice of filing and immediate effectiveness of File No. SR–ISE–2018–29).

[165] *See* Notice, 83 FR at 31788.

[166] *See id.*

[167] *See id.*

[168] *See id.* ISE notes that because the Market Maker Speed Bump is based exclusively on options contracts traded, it applies only to Complex Options Strategies and not to complex strategies that have a stock component. *See id.* at 31797.

[169] *See* Notice, 83 FR at 31792. *See id.* at 31792–3.

exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange on a class, series, or underlying basis. Similarly, ISE proposes to add a reference to the national best bid or offer for the stock leg to the Limit Order Price Protection in ISE Rule 722, Supplementary Material .07(d).[170] ISE believes that these changes will increase transparency with respect to the prices ISE uses when ISE must derive a best bid or offer from the prices available in the regular market.[171] In addition, ISE Rule 722, Supplementary Material .07(d) currently describes the application of the Limit Order Price Protection to Limit Complex Orders to buy. The proposal revises ISE Rule 722, Supplementary Material .07(d) to describe the application of the price protection to Limit Complex Orders to sell.[172]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[173] In particular, for the reasons discussed below, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[174] 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 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. This order approves the proposed rule change in its entirety, although only certain more significant aspects of the proposed rules are discussed below.

A. Definitions and Order Types

The proposal revises ISE's current definitions relating to Complex Orders by creating the new defined terms Complex Options Strategy, Stock-Option Strategy, and Stock-Complex Strategy, as well as the corresponding orders for each of these strategies. The new defined terms should help to clarify ISE's rules by indicating more precisely which ISE rules apply to these orders and strategies.[175] The Commission believes that the Complex Order types in proposed ISE Rule 722(b), including Market Complex Orders, Limit Complex Orders, All-or-None Complex Orders, Attributable Complex Orders, Day Complex Orders, Fill-or-Kill Complex Orders, Immediate-or-Cancel Complex Orders, Opening Only Complex Orders, Good-Till-Date Complex Orders, Good-Till-Cancel Complex Orders, Exposure Complex Orders, and Exposure Only Complex Orders provide market participants with flexibility and control over the trading of Complex Orders.[176] The Commission notes that ISE currently permits each of these order types (other than Exposure Complex Orders and Exposure Only Complex Orders) for orders for a single option series.[177]

The proposal deletes from ISE Rule 722 the definition of SSF-option order. As noted above, ISE states that single stock futures have not gained sufficient popularity among investors to support a SSF-option product, and ISE has never received a SSF-option order.[178] In light of the lack of interest in trading SSF-option orders, the Commission believes that ISE's elimination of SSF-option orders will not negatively impact investors or other market participants.[179]

ISE also proposes to discontinue Reserve Complex Orders in the fourth quarter of 2018.[180] As noted above, ISE states that it does not receive a high volume of Reserve Complex Orders, that there is no great demand for this order type, and that other options exchanges do not offer this order type.[181] ISE will issue an Options Trader Alert to members indicating the date when Reserve Complex Orders will no longer be offered.[182] The Commission notes that under ISE's procedures for executing Reserve Complex Orders, the non-displayed portion of a Reserve Complex Order is available for execution before displayed interest on the regular order book at the same price.[183] The Commission believes that the discontinuation of Reserve Complex Orders will protect investors and the public interest by assuring that all displayed interest on the Complex Order book and the regular book executes before non-displayed interest at the same price.[184]

B. Trading of Complex Orders and Quotes

The Commission notes that proposed ISE Rule 722(c)(2) is designed to protect established leg market interest by providing that if any of the bids or offers established in the marketplace consist of a Priority Customer Order, at least one leg of a Complex Options Order or the options legs of a Stock-Complex Order must trade at a price that is better than the corresponding bid or offer in the marketplace by at least a $0.01 increment.[185] Similarly, the option leg of a Stock-Option Order has priority over leg market interest in the series established by Professional Orders and market maker quotes at the same price, but not over Priority Customer interest in the series.[186] The Commission notes that other options exchanges have similar provisions requiring one leg of a complex order to trade at a better price than the derived leg market price when the established interest in the leg market price includes customer interest.[187] ISE's rules further protect Priority Customer interest by providing that executable Complex Orders will execute against Priority Customer interest on the single leg book at the same price before executing against the Complex Order book.[188] Thus, Priority Customer Orders

[170] *See id.* at 31792–3. Proposed ISE Rule 722, Supplementary Material .07(d) states: There is a limit on the amount by which the net price of an incoming Limit Complex Order to buy may exceed the net price available from the individual options series on the Exchange and the national best bid or offer for any stock leg, and by which the net price of an incoming Limit Complex Order to sell may be below the net price available from the individual options series on the Exchange and the national best bid or offer for any stock leg. Limit Complex Orders that exceed the pricing limit are rejected. The limit is established by the Exchange from time-to-time for Limit Complex Orders to buy (sell) as the net price available from the individual options series on the Exchange and the national best bid or offer for any stock leg plus (minus) the greater of: (i) An absolute amount not to exceed $2.00, or (ii) a percentage of the net price available from the individual options series on the Exchange and the national best bid or offer for any stock leg not to exceed 10%. This limit order price protection applies only to orders and does not apply to quotes.

[171] *See id.*

[172] *See id.* at 31793.

[173] 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).

[174] 15 U.S.C. 78f(b)(5).

[175] For example, the proposal revises ISE Rule 715(k) to indicate that legging orders are generated only for Complex Options Orders.

[176] Complex Customer Cross Orders and Complex QCC Orders are discussed in Section III.F(3), *infra.*

[177] *See* ISE Rule 715.

[178] *See* note 14, *supra,* and accompanying text.

[179] ISE will file a proposed rule change with the Commission if ISE determines to offer SSF-option orders in the future. *See* Notice, 83 FR at 31784.

[180] *See* Amendment No. 1.

[181] *See id.*

[182] *See id.*

[183] *See* Notice, 83 FR at 31785, n.7.

[184] ISE will continue to offer Reserve Orders on the single leg book. *See* Amendment No. 1.

[185] *See* proposed ISE Rules 722(c)(2)(i) and (iii). A Complex Order that does not satisfy the requirements of proposed ISE Rule 722(c)(2) is not executable. *See* proposed ISE Rule 722(d).

[186] *See* proposed ISE Rule 722(c)(2)(ii).

[187] *See, e.g.,* Phlx Rule 1098(c)(iii); EDGX Rule 21.20(c)(1)(B) and (C); and MIAX Rule 518(c)(3).

[188] *See* proposed ISE Rule 722(d)(2) and Amendment No. 1.

on the single leg order book will retain priority and will execute prior to any other Complex Order or non-Priority Customer single leg interest at the same price.[189] In addition, ISE, like other exchanges, does not allow Complex Orders to be executed at prices inferior to the best net price achievable from the best bids and offers on the Exchange for the individual legs.[190]

ISE allows Complex Orders to execute against bids and offers on ISE for the individual legs of the Complex Order if there is no executable contra-side complex interest on the Complex Order Book at a particular price.[191] The Commission believes that allowing Complex Orders to execute against leg market interest could benefit investors by providing additional execution opportunities for both Complex Orders and interest in the regular market. In addition, the Commission believes that executing Complex Orders against interest in the regular market could facilitate interaction between the Complex Order book and the regular market, potentially resulting in a more competitive and efficient market, and better executions for investors. The Commission notes that other exchanges also allow Complex Orders to execute against leg market interest.[192]

As described more fully above, the Trade Value Allowance is a functionality that allows Stock-Option Strategies and Stock-Complex Strategies to trade outside of their expected notional value by a specified amount. The amount of Trade Value Allowance may be determined by a member or set at a default value determined by ISE and announced to members, although any amount of Trade Value Allowance is permitted for orders entered into the auction mechanisms in proposed ISE Rule 722, Supplementary Material .08 that do not trade solely with their contra-side order.[193] Members may opt out of the Trade Value Allowance if they do not want their orders to be executed when there is a Trade Value Allowance of any amount and, in those cases, ISE will strictly enforce the net price marked on the order.[194] The Commission believes that the Trade Value Allowance will provide members with the flexibility to obtain a desired execution of a Stock-Option or Stock-Complex Order when their order trades at a value outside of the expected notional value of the trade due to rounding. The Commission notes that members are not obligated to use the Trade Value Allowance and may choose to have their orders executed at the net price marked on the order.

D. Complex Opening Process and Complex Uncrossing Process

The Commission believes that the Complex Opening Process is designed to provide for the orderly opening of Complex Orders on ISE by matching as much interest in a complex strategy as possible at a price determined through an objective process set forth in ISE's rules. As described more fully above, the Complex Opening Process allows interest residing on the Complex Order Book to trade at a single price within Boundary Prices that are constrained by the NBBO for the individual legs.[195] If the Complex Opening Process fails to discover an appropriate execution price (*e.g.,* there is no valid Opening Price at or within the Boundary Prices), ISE continues the Complex Opening Process by performing an uncrossing, which provides additional execution opportunities by allowing Complex Orders to execute against leg market interest.[196]

ISE states that the Complex Uncrossing Process, when used during regular trading, provides a fair and efficient means for executing Complex Orders or quotes when interest that is locked or crossed becomes executable.[197] As described more fully above, when Complex Orders or quotes become executable, the Complex Uncrossing Process identifies the oldest interest on the Complex Order Book and matches it pursuant to proposed ISE Rule 722(d)(2)–(3) with resting contra-side interest.[198] This process is repeated until the Complex Order Book is no longer executable.[199] The Commission believes that the Complex Uncrossing Process is designed to provide for the execution in accordance with ISE's rules of Complex Orders and other interest on ISE that becomes executable during regular trading or as part of the Complex Opening Process.

E. Complex Order Exposure Process

The Complex Order exposure auction process will allow members to expose eligible Complex Orders for price improvement. ISE notes that the exposure process will not interrupt the processing of Complex Orders because the exposure period for a Complex Order will end immediately upon the receipt of a Complex Order or quote for the same complex strategy on either side of the market that is marketable against the complex order book or bids and offers for the individual legs, thereby assuring that incoming orders are not delayed by the exposure process.[200] In addition, the exposure period will be terminated upon the receipt of a nonmarketable Complex Order or quote for the same complex strategy on the same side of the market that would cause the price of the Complex Order to be outside of the best bid or offer for the same complex strategy on the complex order book, which protects the Complex Order being exposed from missing an execution opportunity.[201] ISE notes that no market participants are excluded from initiating or participating in a Complex Order exposure auction.[202] The Commission believes that the exposure auction process may provide additional opportunities for Complex Orders to receive price improvement. The Commission notes that other options exchanges provide similar auctions for complex orders.[203]

F. Internalization and Crossing

1. Complex Facilitation Mechanism and Complex Solicited Order Mechanism

The Commission believes that the Complex Facilitation Mechanism and the Complex Solicited Order Mechanism may provide opportunities for Complex Orders to receive price improvement. ISE members may submit a customer Complex Order and matching contra-side interest into the Complex Facilitation Mechanism or the Complex Solicited Order Mechanism for price improvement. Upon entry of a Complex Order into one of the mechanisms, ISE sends member a broadcast message that includes the net price, side, and size of the Agency Complex Order, and members may enter Responses with the net prices and sizes at which they wish to participate in the execution of the Agency Complex

[189] *See id.*

[190] *See* proposed ISE ISE Rule 722(c)(2) and Amendment No. 1. *See also* EDGX Rule 21.20(c)(2)(E); and MIAX Rule 518(c)(2)(ii).

[191] *See* proposed ISE Rule 722(d)(3).

[192] *See, e.g.,* EDGX Rule 21.20(c)(2)(F); and MIAX Rule 518(c)(2)(iii).

[193] *See* proposed ISE Rule 722, Supplementary Material .09.

[194] *See* Notice, 83 FR at 31793.

[195] *See id.* at 31796.

[196] ISE also performs an uncrossing if there is interest that is locked or crossed after Complex Orders and quotes are executed in the Complex Opening Price Determination. *See id.*

[197] *See id.*

[198] *See* proposed ISE Rule 722, Supplementary Material .12(b).

[199] *See* proposed ISE Rule 722, Supplementary Material .12(b)(iii).

[200] *See* Notice, 83 FR at 31797. *See also* proposed ISE Rule 722, Supplementary Material .01(b)(ii).

[201] *See* Notice, 83 FR at 31797.

[202] *See id.*

[203] *See, e.g.,* Cboe Rule 6.53C(d); and EDGX Rule 21.20(d).

Order.[204] At the conclusion of the auction, a Complex Order entered into the Complex Facilitation Mechanism or the Complex Solicited Order Mechanism receives an execution at the best price available and, at a minimum, is executed in full against the matching contra-side interest. Thus, a Complex Order entered into the Complex Facilitation Mechanism or the Complex Solicited Order Mechanism is guaranteed an execution at the conclusion of the auction and may be executed at an improved price.[205] The Commission notes that ISE also operates Facilitation Mechanism and Solicited Order Mechanism auctions for orders for a single option series.[206]

2. Complex PIM

The Commission believes that the Complex PIM may provide opportunities for Complex Orders to receive price improvement. A Complex Order entered into Complex PIM auction must be stopped at a price that is better than the best net price (i) available on the Complex Order book on both sides of the market; and (ii) achievable from the best ISE bids and offers for the individual legs on both sides of the market (an ''improved net price'').[207] A member enters an Agency Complex Order into the Complex PIM against principal or solicited interest for execution.[208] At the conclusion of the exposure period, the Agency Complex Order will be executed in full at the best prices available, taking into consideration Complex Orders and quotes in the Complex Order book, Improvement Complex Orders, the Counter-Side Order, and, for Complex Options Orders, the ISE best bids and offers on the individual legs.[209] Thus, a Complex Order entered into a Complex PIM auction would receive an execution at the best price available at the conclusion of the auction and, at a minimum, would be executed in full at the improved net price. The Commission notes that other options exchanges have adopted similar rules to permit the entry of complex orders into an electronic price improvement auction process.[210] In addition, the Commission notes that ISE operates a PIM auction for orders for a single option series.[211]

3. Complex Customer Cross Orders, Complex QCC Orders, and Complex QCC With Stock Orders

ISE's proposed Customer Cross Complex Orders allow for the crossing of Priority Customer Complex Orders in a manner similar to other customer crossing rules that the Commission has previously approved for another options exchange.[212] The Commission believes that ISE's proposed Customer Cross Complex Orders are consistent with the Act and do not raise any novel or significant issues.

ISE's proposed Complex QCC rules permit Complex Orders to participate in a clean cross of the options leg of a subset of qualified contingent trades in a similar manner as Qualified Contingent Cross Orders already permitted on ISE.[213] The Commission notes that, under the proposal (1) a Complex QCC Order must be part of a qualified contingent trade under Regulation NMS;[214] (2) each options leg of a Complex QCC Order must be for 1,000 contracts; and (3) the options legs of the Complex QCC Order must be executed at prices that (A) are at or between the NBBO for the individual series, and (B) comply with the provisions of proposed ISE Rule 722(c)(2)(i), provided that no options leg of a Complex QCC Order can be executed at the same price as a Priority Customer Order on ISE in the individual options series. The Commission believes that these requirements establish a limited exception to the general principle of exposure and retain the general principle of customer priority in the options markets. In addition, the requirement that a Complex QCC Order be part of a qualified contingent trade by satisfying each of the six underlying requirements of the NMS QCT Exemption, and the requirement that each options leg of a Complex QCC Order be for a minimum size of 1,000 contracts, provide another limit to the use of Complex QCC Orders by ensuring that only transactions of significant size may avail themselves of this order type. The Commission notes that ISE's proposed rules for Complex QCC Orders are similar to the rules of another options exchange.[215]

The Commission believes that ISE's proposed Complex QCC with Stock Orders could help ISE members comply with the requirement to execute the stock component of a qualified contingent trade. The Commission notes that the requirements of ISE Rule 721, Supplementary Material .01–.03 apply to the entry and execution of Complex QCC with Stock Orders.[216] The Commission further notes that a member that executes the options component of a qualified contingent trade entered as a Complex QCC with Stock Order remains responsible for the execution of the stock component if it does not receive an execution from its designated broker-dealer.[217]

G. Concurrent Auctions

ISE proposes to permit certain auctions for complex strategies to operate concurrently with auctions for a single option series that is a component of the complex strategy.[218] The Commission believes that ISE's proposed rule provides for the orderly processing of concurrent complex and single leg auctions. The Commission notes that another options exchange has adopted similar rules.[219]

In addition, ISE proposes to delete from ISE Rule 722 language indicating that ISE will recommence concurrent Complex Order auctions in or before April 17, 2019, and to adopt a rule indicating that only one auction in a complex strategy will be ongoing at any given time.[220] As noted above, ISE states that no member has complained or expressed concern about the absence of the concurrent auction functionality, which has not operated on ISE since 2017.[221] ISE further states that, prior to the migration to the INET platform, concurrent auctions in a complex strategy occurred rarely, approximately 0.5% of the time that an auction ran on

[204] *See* proposed ISE Rules 722, Supplementary Material .08(a)(3) and (b)(3).

[205] *See* proposed ISE Rules 722, Supplementary Material .08(a)(1)(iv) and (b)(4)(iii).

[206] *See* ISE Rule 716(d) and (e).

[207] *See* proposed ISE Rule 722, Supplementary Material .08(c)(2).

[208] *See* proposed ISE Rule 722, Supplementary Material .08(c)(1).

[209] *See* proposed ISE Rule 722, Supplementary Material .08(c)(5).

[210] *See, e.g.,* BOX Rule 7245; Cboe Rule 6.74A; MIAX Rule 515A, Interpretation and Policy .12; and NYSE American Rule 971.2NY.

[211] *See* ISE Rule 723.

[212] *See* MIAX Rule 518(h)(3). *See also* Cboe Rule 6.74A, Interpretation and Policy .08(b).

[213] *See* ISE Rule 721(b). *See also* Securities Exchange Act Release Nos. 64653 (June 13, 2011), 76 FR 35491 (June 17, 2011) (order approving File No. SR–CBOE–2011–41); and 63955 (February 24, 2011), 76 FR 11533 (March 2, 2011) (order approving File No. SR–ISE–2010–73). The Commission has granted an exemption for qualified contingent trades that meet certain requirements from Rule 611(a) of Regulation NMS, 17 CFR 242.611(a) (the ''NMS QCT Exemption''). *See* Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008) (which supersedes a release initially granting the NMS QCT Exemption, Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006)).

[214] *See* note 139, *supra.*

[215] *See* MIAX Rule 515(h)(4).

[216] *See* proposed ISE Rule 722, Supplementary Material .08(f)(4).

[217] *See* ISE Rule 721, Supplementary Material .03.

[218] *See* proposed ISE Rule 722, Supplementary Material .08(h).

[219] *See* NYSE American Rules 971.1NY, Commentary .01, and 971.2NY, Commentary .03.

[220] *See* proposed ISE Rule 722, Supplementary Material .08(g) and Amendment No. 1.

[221] *See* Amendment No. 1.

the Exchange.[222] Because concurrent auctions for a complex strategy occurred infrequently, the Commission does not believe that the elimination of the concurrent auction functionality for complex strategies will significantly affect investors or other market participants. In addition, in the absence of the concurrent auction functionality, a market participant with auction-eligible interest that wished to initiate an auction on ISE could wait for an ongoing auction to conclude or submit its interest to another exchange. The Commission notes that another options market does not permit concurrent auctions for the same complex strategy.[223]

H. Stock-Option and Stock-Complex Orders

Proposed ISE Rule 722, Supplementary Material .13 allows members to submit only Stock-Option and Stock-Complex Orders and quotes that comply with the QCT Exemption from Rule 611(a) of Regulation NMS. The proposed rule further requires that the stock leg of a Stock-Option Order be marked ''buy,'' ''sell,'' ''sell short,'' or ''sell short exempt'' in compliance with Regulation SHO under the Exchange Act. The Commission notes that other options exchanges have adopted similar rules.[224] Accordingly, the Commission does not believe that proposed ISE Rule 722, Supplementary Material .13 raises novel regulatory issues.

I. Additional Changes

The Commission believes that the proposed change to ISE Rules 722, Supplementary Material .03 makes clear that the market maker quoting functionality for Complex Orders will be available only in classes selected by ISE, consistent with ISE's practice prior to the transition to the INET platform.[225] In addition, the proposed changes to ISE Rule 722, Supplementary Material .04 make clear that the Market Maker Speed Bump applies only to Complex Options Strategies. The Commission believes that the changes to ISE Rule 722, Supplementary Material .03 and .04 will help to assure that the rules accurately describe the availability and operation of their respective functionalities.

The Commission believes that the proposed change to ISE Rule 722, Supplementary Material .07(a) to incorporate references to the stock leg of a Stock-Option or Stock-Complex Order revises the rule to reflect the manner in which Supplementary Material .07(a) applies to Complex Orders with a stock component. The Commission notes that the proposed changes to ISE Rule 722, Supplementary Material .07(d) include a similar clarification and also describe the application of the limit order price protection in Supplementary Material .07(d) to Limit Complex Orders to sell. The Commission believes that this change will assure that ISE Rule 722, Supplementary Material .07(d) accurately reflects the manner in which the limit order price protection applies to Limit Complex Orders to sell.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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–ISE–2018–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2018–56. 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 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–ISE–2018–56, and should be submitted on or before November 2, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, ISE revises its original proposal to make the changes discussed in detail above. Notably, in Amendment No. 1, ISE revises the proposal to discontinue offering Reserve Complex Orders. The Commission believes that eliminating Reserve Complex Orders will assure that all displayed interest on the Complex Order Book and on the regular book executes before non-displayed interest. Amendment No. 1 also provides that ISE will not re-introduce the auction functionality that permits concurrent auctions for the same complex strategy. For the reasons discussed above, the Commission does not believe that the elimination of this functionality will significantly affect investors or other market participants on ISE. Amendment No. 1 clarifies and provides additional detail to the text of the proposed rules, makes technical corrections, and provides additional analysis of the certain proposed changes, thus facilitating the Commission's ability to make the findings set forth above to approve the proposal. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[226] that the proposed rule change (SR–ISE–2018–

[222] *See* April Notice, 82 FR at 19131. *See also* Amendment No. 1.

[223] *See* Phlx Rule 1098(e)(2). In addition, MIAX has the ability to limit the frequency of Complex Auctions by establishing a minimum time period between auctions. *See* MIAX Rule 518(d).

[224] *See, e.g.,* Cboe Rule 6.53C, Interpretation and Policy .06(a) and (e); MIAX Rule 518, Interpretation and Policy .01.

[225] *See* Notice, 83 FR at 31788. ISE intends to continue this practice after the complex quoting functionality has been re-enabled on the INET platform. *See id.* at 31797. ISE notes that market makers can enter Complex Orders in all classes regardless of whether quoting is permitted. *See id.*

[226] 15 U.S.C. 78s(b)(2).

56), as modified by Amendment No. 1, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[227]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22202 Filed 10–11–18; 8:45 am]

BILLING CODE 8011–01–P

[227] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33265; 812–14883]

Natixis Funds Trust I, et al.; Notice of Application

October 5, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: Natixis Funds Trust I, Natixis Funds Trust II, Natixis Funds Trust IV, Natixis ETF Trust, Natixis ETF Trust II, Loomis Sayles Fund I, Loomis Sayles Funds II, and Gateway Trust (each a ''Trust'' and collectively the ''Trusts''), each an open-end management investment company, and Natixis Advisors, L.P. (the ''Adviser''), a registered investment adviser under the Investment Advisers Act of 1940 (collectively with the Trusts, the ''Applicants'').

FILING DATES: The application was filed on March 9, 2018 and amended on August 17, 2018, and September 7, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 30, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Russell Kane, Esq., Natixis Advisors, L.P., 888 Boylston Street, Boston, MA 02199; John M. Loder, Esq., Ropes & Gray LLP, 800 Boylston Street, Boston, MA 02199.

FOR FURTHER INFORMATION CONTACT: Matthew B. Archer-Beck, Senior Counsel, at (202) 551–5044, or Katlin C. Bottock, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the Trusts (each, an ''Investment Management Agreement'').[1] The Adviser will provide the Subadvised Series with continuous and comprehensive investment management services, subject to the supervision of, and policies established by the board of trustees of the Trust (the ''Board''). The Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a ''Sub-Adviser'' and collectively, the ''Sub-Advisers'') the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Adviser.[2] The primary responsibility for managing each Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[3] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, ''Aggregate Fee Disclosure'').

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Series shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series' shareholders.

[1] Applicants request relief with respect to the named Applicants, as well as to any future series of the Trusts and any other registered open-end management investment company or series thereof that (a) is advised by the Adviser, its successors, or any entity controlling, controlled by or under common control with the Adviser or its successors (included in the term ''Adviser''); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions set forth in the application (each, a ''Subadvised Series''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] A ''Sub-Adviser'' for a Subadvised Series is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Subadvised Series, or (2) a sister company of the Adviser for that Subadvised Series that is an indirect or direct ''wholly-owned subsidiary'' of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Subadvised Series, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Subadvised Series (''Non-Affiliated Sub-Advisers'').

[3] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in Section 2(a)(3) of the Act, of the Subadvised Series, the Trusts or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22196 Filed 10–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84378; File No. SR–CboeBZX–2018–044]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend BZX Rule 14.11(c) (Index Fund Shares)

October 5, 2018.

I. Introduction

On June 21, 2018, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BZX Rule 14.11(c) to permit either the portfolio holdings of a series of Index Fund Shares or the index underlying a series of Index Fund Shares to satisfy the listing standards under BZX Rules 14.11(c)(3), (4), and (5). The proposed rule change was published for comment in the **Federal Register** on July 11, 2018.[3] On August 23, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On September 28, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change as originally filed.[6] The Commission has received no comment letters on the proposal. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to 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.

II. Description of the Proposal, as Modified by Amendment No. 1 [8]

BZX Rule 14.11(c) sets forth the listing standards for Index Fund Shares. Currently, the Exchange determines whether a series of Index Fund Shares meets the initial and continued listing standards under BZX Rules 14.11(c)(3), (4), and (5) by assessing the underlying index. The Exchange now proposes to permit either the portfolio holdings of a series of Index Fund Shares or the index underlying a series of Index Fund Shares to satisfy the initial and continued listing standards under BZX Rules 14.11(c)(3), (4), and (5). As a result, the proposal would allow the Exchange to generically list a series of Index Fund Shares where the generic listing standards are satisfied by either its portfolio holdings or its underlying index.

The Exchange also proposes to amend BZX Rules 14.11(c)(1)(C),[9] 14.11(c)(8),[10] and 14.11(c)(9)(B)(i)(b) [11] to eliminate certain references to the term ''portfolio'' such that the amended provisions would apply only to the underlying index. As proposed, all other references to ''index or portfolio'' or ''portfolio or index'' in BZX Rule 14.11(c) would mean the index underlying a series of Index Fund Shares or the portfolio holdings of a series of Index Fund Shares.

The Exchange represents that it has in place surveillance procedures that are adequate to properly monitor trading in Index Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. In addition, the Exchange states that it does not believe that the proposal will result in any meaningful additional costs associated with regulatory review, but to the extent that it does, the Exchange either already has or will dedicate sufficient additional resources to perform such reviews.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83594 (July 5, 2018), 83 FR 32158.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83919, 83 FR 44083 (August 29, 2018). The Commission designated October 9, 2018 as the date by which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] In Amendment No. 1, the Exchange: (1) Proposed to delete certain references to the term ''portfolio'' in BZX Rules 14.11(c)(1)(C), 14.11(c)(8), and 14.11(c)(9)(B)(i)(b) such that the amended provisions would apply only to the index underlying a series of Index Fund Shares; (2) represented that, to the extent that the proposal results in meaningful additional costs associated with regulatory review, the Exchange either already has or will dedicate sufficient additional resources to perform such reviews; (3) supplemented its arguments in support of the proposal; and (4) made technical and conforming changes. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-cboebzx-2018-044/srcboebzx2018044.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] For a full description of the proposal, *see* Amendment No. 1, *supra* note 6.

[9] BZX Rule 14.11(c)(1)(C) currently defines the term ''Reporting Authority'' to mean, in part, the official source for calculating and reporting information relating to a series of Index Fund Shares, including, but not limited to, any current index ''or portfolio'' value. The Exchange proposes to delete the term ''or portfolio'' from this provision.

[10] BZX Rule 14.11(c)(8) currently provides, in part, that the Exchange may list and trade Index Fund Shares based on one or more foreign or domestic indexes ''or portfolios'' and that each issue of Index Fund Shares based on each particular index ''or portfolio, or combination thereof,'' shall be designated as a separate series and shall be identified by a unique symbol. The Exchange proposes to delete the terms ''or portfolios'' and ''or portfolio, or combination thereof,'' from this provision.

[11] BZX Rule 14.11(c)(9)(B)(i)(b) currently provides, in part, that the Exchange will consider the suspension of trading in and will initiate delisting proceedings for a series of Index Fund Shares if the value of the index ''or portfolio'' of securities on which the series of Index Fund Shares is based is no longer calculated or available, or an interruption to the dissemination of the value of the index ''or portfolio'' of securities persists past the trading day in which it occurred, or the index ''or portfolio'' on which a series of Index Fund Shares is based is replaced with a new index ''or portfolio'' unless certain conditions are met. The Exchange proposes to delete the terms ''or portfolio'' from this provision.

III. Proceedings to Determine Whether To Approve or Disapprove SR–CboeBZX–2018–044, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [12] to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act,[13] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act,[14] 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, and to protect investors and the public interest.

As discussed above, the proposal would permit either the portfolio holdings of a series of Index Fund Shares or the index underlying a series of Index Fund Shares to satisfy the initial and continued listing standards under BZX Rules 14.11(c)(3), (4), and (5). The Exchange asserts that the proposal would provide issuers of Index Fund Shares with a greater degree of control over whether their products meet their ongoing listing obligations, and that the proposal would accomplish the policy goals underlying the listing standards for Index Fund Shares.[15] In particular, the Exchange asserts that the index methodology for an index underlying a series of Index Fund Shares is out of the control of the issuers of the products, and that it is problematic to require an issuer to ensure that the underlying index meets listing standards on an ongoing basis.[16] The Exchange also asserts that, after a series of Index Fund Shares is listed on the Exchange, both the index constituents and the portfolio holdings are equally viable for evaluating whether the shares are susceptible to manipulation.[17] Moreover, according to the Exchange, portfolio holdings are arguably a better means for making these determinations than the underlying index because the portfolio holdings reflect the actual assets held by a series of Index Fund Shares, whereas the index constituents are just the assets that the series is designed to track.[18] Additionally, the Exchange states that any series of Index Fund Shares listed on the Exchange must meet all requirements applicable under the Investment Company Act of 1940, including Rule 35d–1,[19] which requires a series of Index Fund Shares to invest at least 80% of its assets in investments connoted by the index (''80% Rule'').[20] According to the Exchange, the 80% Rule would provide assurance that there is significant overlap between the portfolio holdings and the underlying index.[21] Finally, the Exchange compares Index Fund Shares to Managed Fund Shares, and notes that the generic listing standards for Managed Fund Shares under BZX Rule 14.11(i) apply to portfolio holdings.[22]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 1,[23] in addition to any other comments they may wish to submit about the proposal. In particular, the Commission seeks comment regarding whether the proposal would result in the listing and trading of Index Fund Shares that are susceptible to manipulation because they overlie indexes that do not meet the listing standards under BZX Rule 14.11(c). The Commission seeks comment regarding whether the 80% Rule or any other safeguard would help assure that, as long as the portfolio holdings meet the listing standards under BZX Rules 14.11(c)(3), (4), and (5), the Index Fund Shares would not be susceptible to manipulation. The Commission also seeks comment regarding whether the proposal sufficiently addressed manipulation risk by merely applying, without change, the current listing standards under BZX Rules 14.11(c)(3), (4), and (5) that are applicable to the underlying index to the portfolio holdings of a series of Index Fund Shares.[24] Moreover, the Commission seeks comment regarding whether the Exchange has sufficiently justified the flexibility it seeks under the proposal, which would allow the Exchange to choose to apply the listing standards under BZX Rules 14.11(c)(3), (4), and (5) to either the portfolio holdings or the underlying index, both at the time of initial listing and at any time thereafter.[25] Finally, the Commission seeks comment regarding the sufficiency of the Exchange's statements in support of the deletion of certain references to the term ''portfolio'' in BZX Rules 14.11(c)(1)(C), 14.11(c)(8), and 14.11(c)(9)(B)(i)(b).

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations

[12] 15 U.S.C. 78s(b)(2)(B).

[13] *Id.*

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Amendment No. 1, *supra* note 6, at 7 and 10.

[16] *See id.* at 7. According to the Exchange, where the index constituents no longer meet the listing standards, the only ways for constituents to get back into compliance are through natural market movements, an index rebalance, a change to the index methodology, or a change of index. *See id.* The Exchange asserts that: (1) It is not feasible for an issuer to rely on natural market movements to bring a series of Index Fund Shares back into compliance with the listing standards; (2) an index rebalance may or may not bring a series of Index Fund Shares back into compliance, and index rebalances may not occur within the cure periods specified in BZX Rule 14.12 (*i.e.,* up to 180 calendar days from initial notice of non-compliance with the listing standards); and (3) changing an index's methodology or changing the underlying index would require significant effort and months of notice, and therefore also may not occur within the cure periods specified in BZX Rule 14.12. *See id.*

[17] *See id.* at 5.

[18] *See id.* at 6. The Exchange acknowledges that allowing the portfolio holdings to satisfy the generic listing standards could raise concerns that a series of Index Fund Shares may be based on an index that does not meet the generic listing standards and therefore may be susceptible to manipulation. *See id.* at 9. However, the Exchange argues that, currently, a series of Index Fund Shares overlying an index that meets the generic listing standards may have portfolio holdings that could theoretically be susceptible to manipulation (and/or the creation and redemption process and the arbitrage mechanisms would not operate efficiently) because the portfolio holdings do not meet the generic listing standards. *See id.*

[19] 17 CFR 270.35d–1.

[20] *See* Amendment No. 1, *supra* note 6, at 9–10.

[21] *See id.*

[22] *See id.* at 8.

[23] *See supra* note 6.

[24] The Commission notes that there are differences between the listing standards for Index Fund Shares under BZX Rule 14.11(c) and the listing standards for Managed Fund Shares under BZX Rule 14.11(i).

[25] As proposed, the Exchange could assess the portfolio holdings at one time, and assess the underlying index at another time.

thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[26] any request for an opportunity to make an oral presentation.[27]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by November 2, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by November 16, 2018.

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–2018–044 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–2018–044. 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–2018–044 and should be submitted by October 29, 2018. Rebuttal comments should be submitted by November 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[26] 17 CFR 240.19b–4.

[27] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84377; File No. SR–CboeBZX–2018–047]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment Nos. 2 and 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 2 and 4, To Amend BZX Rule 14.8, General Listings Requirements—Tier I, To Adopt Listing Standards for Closed-End Funds

October 5, 2018.

I. Introduction

On June 21, 2018, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BZX Rule 14.8, General Listings Requirements—Tier I, to adopt listing standards for Closed-End Funds. The proposed rule change was published for comment in the **Federal Register** on July 11, 2018.[3] On August 24, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On August 28, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change as originally filed. On September 24, 2018, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change, as modified by Amendment No. 1.[6] On October 3, 2018, the Exchange filed and withdrew Amendment No. 3 to the proposed rule change and filed Amendment No. 4 to the proposed rule change.[7] The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 4 from interested persons, and is approving the proposed rule change, as modified by Amendment Nos. 2 and 4, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment Nos. 2 and 4[8]

The Exchange proposes to amend BZX Rule 14.8[9] to adopt listing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83596 (July 5, 2018), 83 FR 32162.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83938, 83 FR 44403 (August 30, 2018). The Commission designated October 9, 2018 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 2, the Exchange: (i) Noted that the proposed quantitative listing standards differ from the listing standards for closed-end funds on NYSE American LLC (''NYSE American'') in two ways and described those differences; (ii) reorganized the proposed definitions of ''Public Distribution'' and ''Public Shareholders;'' (iii) specified the meaning of ''market value'' for purposes of Closed-End Funds (as defined herein); (iv) amended the proposed Market Maker requirement; (v) proposed additional continued listing standards; (vi) modified the proposed trading hours for Closed-End Funds; (vii) noted that BZX Rule 14.6 also provides certain conditions under which the Exchange will halt trading in a Closed-End Fund; (viii) represented that Closed-End Funds will be subject to the Exchange's surveillance procedures for ETPs and other equity securities traded on the Exchange; (ix) represented that the governance requirements for Closed-End Funds would be substantially similar to those applicable to closed-end funds on the Nasdaq Stock Market LLC (''Nasdaq''); and (x) made technical and conforming changes. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-cboebzx-2018-047/srcboebzx2018047-4447313-175711.pdf.*

[7] In Amendment No. 4, the Exchange corrected two typographical errors from Amendment No. 2. Amendment No. 4 is available at: *https://www.sec.gov/comments/sr-cboebzx-2018-047/srcboebzx2018047-4474562-175863.pdf.*

[8] For a full description of the proposal, *see* Amendment No. 2, *supra* note 6 and Amendment No. 4, *supra* note 7.

[9] Specifically, the Exchange proposes to add new paragraphs (e) and (i) under BZX Rule 14.8 related to the initial and continued listing standards, respectively, for Closed-End Funds. The Exchange

Continued

standards for Closed-End Funds,[10] which are based on existing listing standards applicable to closed-end funds listed on NYSE American.[11]

For initial listing, a Closed-End Fund must meet the requirements for either an individual Closed-End Fund (''Individual CEF Standard'') or a Group [12] of Closed-End Funds (''Group CEF Standard''). The Individual CEF Standard requires:

(i) A Public Distribution [13] of: (a) At least 500,000 shares where there are at least 800 Public Shareholders,[14] except that companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, are normally not considered eligible for listing unless the Public Distribution appreciably exceeds 500,000 shares; [15] or (b) at least 1,000,000 shares where there are at least 400 Public Shareholders;

(ii) A Public Distribution with a market value [16] or net assets of at least $20 million;

(iii) Minimum bid price of at least $4 per share; and

(iv) At least four registered and active Market Makers.[17]

The Group CEF Standard requires:

(i) The Group has a Public Distribution with a market value or net assets of at least $75 million;

(ii) The Closed-End Funds in the Group have a Public Distribution with an average market value or average net assets of at least $15 million;

(iii) Each Closed-End Fund in the Group has a Public Distribution with a market value or net assets of at least $10 million; and

(iv) Each Closed-End Fund in the Group has:

(a) A Public Distribution of: (1) At least 500,000 shares where there are at least 800 Public Shareholders, except that companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, are normally not considered eligible for listing unless the Public Distribution appreciably exceeds 500,000 shares; [18] or (2) at least 1,000,000 shares where there are at least 400 Public Shareholders;

(b) Minimum bid price of at least $4 per share; and

(c) At least four registered and active Market Makers.[19]

The Exchange will consider the suspension of trading in and will initiate delisting proceedings (and such Closed-End Fund will not be eligible to follow the cure procedures outlined in BZX Rule 14.12) for a Closed-End Fund where:

(i) The market value of the Public Distribution and net assets each are less than $5 million for more than 60 consecutive days;

(ii) The Closed-End Fund no longer qualifies as a closed-end fund under the Investment Company Act of 1940 (unless the resultant entity otherwise qualifies for listing);

(iii) The Public Distribution is less than 200,000;

(iv) The total number of Public Shareholders is less than 300;

(v) The Public Distribution has a market value of less than $1 million for more than 90 consecutive days;

(vi) The bid price is less than $1 per share; or

(vii) There are fewer than four registered and active Market Makers.[20]

Closed-End Funds listed on the Exchange will be subject to the governance requirements in BZX Rule 14.10 applicable to all management investment companies listed on the Exchange, except as provided in the exceptions to certain governance requirements for management investment companies under BZX Rule 14.10(e)(1)(E) and Interpretation and Policy .13 of BZX Rule 14.10. The Exchange notes that the governance requirements for Closed-End Funds are substantially similar to those applicable to closed-end funds listed on Nasdaq.[21]

Closed-End Funds will be subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in Closed-End Funds from 8:00 a.m. until 8:00 p.m. Eastern Time [22] and the Exchange represents that it has appropriate rules to facilitate such transactions during all trading sessions. The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a Closed-End Fund. The Exchange will halt trading in a Closed-End Fund under the conditions specified in BZX Rule 11.18 (Trading Halts Due to Extraordinary Market Volatility). BZX Rule 14.6 (Obligations for Companies Listed on the Exchange) also provides certain conditions under which the Exchange will halt trading in a Closed-End Fund. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares inadvisable. These include whether unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Trading of Closed-End Funds on the Exchange will be subject to the Exchange's surveillance procedures for ETPs and other equity securities traded on the Exchange. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Closed-End Funds on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

also proposes to renumber certain existing paragraphs in BZX Rule 14.8 in order to accommodate these new paragraphs.

[10] As proposed in BZX Rule 14.8(a), the term ''Closed-End Funds'' means closed-end management investment companies registered under the Investment Company Act of 1940.

[11] The Exchange notes that the proposed quantitative listing standards are substantively identical to the listing standards applicable to closed-end funds on NYSE American (''NYSE American CEF Rules''), with two exceptions. Specifically, the proposed quantitative listing standards are substantively identical to Sections 101(g), 102(a), and 1003(b)(i) and (v) in the NYSE American Company Guide. In addition, the Exchange proposes to require that a Closed-End Fund has a minimum of four registered and active Market Makers, and that a Closed-End Fund has a minimum bid price of at least $4 per share initially and at least $1 per share on an ongoing basis. These additional requirements are consistent with the Exchange's listing standards for corporate securities under current BZX Rules 14.8(b)(1)(A), 14.8(e)(1)(A), 14.8(b)(2)(C)(iii), and 14.8(e)(2)(B)(iv).

[12] As defined in proposed BZX Rule 14.8(e)(2)(B), a ''Group'' is a group of Closed-End Funds which are or will be listed on the Exchange, and which are managed by a common investment adviser or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940 as amended.

[13] As defined in proposed BZX Rule 14.8(e)(1)(B), the term ''Public Distribution'' means the public distribution including only Public Shareholders.

[14] As defined in proposed BZX Rule 14.8(e)(1)(A), the term ''Public Shareholders'' includes both shareholders of record and beneficial holders, but is exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated (*i.e.,* 10% or greater), affiliated or family holdings.

[15] As proposed, where the Public Distribution appreciably exceeds 500,000 shares for companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, the 800 Public Shareholders requirement would also apply.

[16] For purposes of Closed-End Funds, the term ''market value'' means the official closing price multiplied by the unit of count.

[17] *See* proposed BZX Rule 14.8(e)(2)(A).

[18] *See supra* note 15.

[19] *See* proposed BZX Rule 14.8(e)(2)(B).

[20] *See* proposed BZX Rule 14.8(i).

[21] *See* Nasdaq Rule 5600 series.

[22] The Exchange notes that this includes three trading sessions on the Exchange: The Pre-Opening Session from 8:00 a.m. to 9:30 a.m. Eastern Time; Regular Trading Hours from 9:30 a.m. to 4:00 p.m. Eastern Time; and the After Hours Trading Session from 4:00 p.m. to 8:00 p.m. Eastern Time.

securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the proposed initial and continued listing standards for Closed-End Funds under BZX Rule 14.8 are substantively identical to the listing standards for closed-end funds currently utilized by NYSE American, with the exceptions of two additional requirements proposed by the Exchange.[25] The Commission also notes that the Exchange's governance requirements that will be applicable to Closed-End Funds are substantially similar to those applicable to closed-end funds listed on Nasdaq.[26] As discussed above, Closed-End Funds will be subject to the Exchange's existing rules governing the trading of equity securities, and the Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Closed-End Funds on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

Based on the foregoing, the Commission believes that the proposal presents no novel regulatory issues and finds the proposal to be consistent with the Act.

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

[25] As discussed above, in addition to the listing standards for closed-end funds currently utilized by NYSE American, the Exchange would require that a Closed-End Fund has a minimum of four registered and active Market Makers, and that a Closed-End Fund has a minimum bid price of at least $4 per share initially and at least $1 per share on an ongoing basis. These two additional requirements are consistent with the Exchange's listing standards for corporate securities. *See supra* note 11.

[26] *See supra* note 21.

IV. Solicitation of Comments on Amendment Nos. 2 and 4 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment Nos. 2 and 4 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–CboeBZX–2018–047 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–2018–047. 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 will also 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–2018–047 and should be submitted on or before November 2, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 4

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 2 and 4, prior to the thirtieth day after the date of publication of notice of the filing of Amendment Nos. 2 and 4 in the **Federal Register**. The Commission notes that Amendment No. 2 enhanced consistency between the Exchange's proposed listing standards and the existing listing standards for closed-end funds on other exchanges, as well as the existing listing standards for corporate securities on the Exchange. Amendment No. 2 also provided additional description of the proposed listing standards, trading rules, and surveillance procedures, and made technical and conforming changes. The changes in Amendment No. 2 assisted the Commission in finding that the proposal is consistent with the Act. The Commission notes that Amendment No. 4 only corrected two typographical errors. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[27] to approve the proposed rule change, as modified by Amendment Nos. 2 and 4, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR–CboeBZX–2018–047), as modified by Amendment Nos. 2 and 4, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22206 Filed 10–11–18; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(2).

[28] *Id.*

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84380; File No. SR–NYSENAT–2018–22]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees

October 5, 2018.

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 September 28, 2018, NYSE National, Inc. (''Exchange'' or ''NYSE National'') 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 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 Schedule of Fees and Rebates to (1) revise the requirements to qualify for the Adding Tier 2 credits; (2) adopt a new Adding Tier 3 that would set forth fees for displayed and non-displayed orders that add liquidity to the Exchange; and (3) eliminate waiver of the volume requirements for the current Taking Tier. The Exchange proposes to implement the rule change on October 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, 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 Schedule of Fees and Rebates to (1) revise the requirements to qualify for the Adding Tier 2 credits; (2) adopt a new Adding Tier 3 that would set forth fees for displayed and non-displayed orders that add liquidity to the Exchange; and (3) eliminate waiver of the volume requirements for the current Taking Tier.

The Exchange proposes to implement the rule change on October 1, 2018.

Adding Tier 2 Requirements

Currently, under Adding Tier 2, the Exchange offers the following fees for transactions in stocks with a per share price of $1.00 or more when adding liquidity to the Exchange if the ETP Holder quotes at least 5% of the NBBO [4] in 1,000 or more symbols on an average daily basis, calculated monthly:

- $0.0005 per share for adding displayed orders;
- $0.0005 per share for orders that set a new Exchange BBO; [5]
- $0.0007 per share for adding non-displayed orders; and
- $0.0005 per share for adding MPL orders.

The Exchange proposes to revise the requirements for the Adding Tier 2 fees and provide alternative requirements to qualify for the fees.

First, in addition to requiring ETP Holders to quote at least 5% of the NBBO in 1,000 or more symbols on an average daily basis, calculated monthly, the Exchange proposes that ETP Holders also execute 0.25% or more Adding average daily volume (''ADV'') as a percentage of U.S. consolidated ADV (''CADV'').

Second, the Exchange proposes that ETP Holders can alternatively qualify for the above Adding Tier 2 fees when adding liquidity to the Exchange if the ETP Holder quotes at least 5% of the NBBO in 2,500 or more symbols on an average daily basis, calculated monthly and execute 0.10% or more Adding ADV as a percentage of U.S. CADV. The proposed 5% requirement would be the same as the current 5% requirement described in footnote **.

For example, in a given month of 20 trading days, if an ETP Holder quotes at least 5% of the NBBO in 3,000 securities each day for the first 10 days and quotes at least 5% of the NBBO in 2,400 securities each day for the last 10 days, the ETP Holder would have 2,700 securities on an average daily basis that meet the 5% NBBO requirement for the billing month. If that same ETP holder executes 10.5 million shares Adding ADV in that same month where U.S. CADV is 7 billion shares, or 0.15% as a percentage of U.S. CADV, the qualifications for Adding Tier 2 would be met.

Proposed Adding Tier 3

The Exchange proposes a new Adding Tier 3 for displayed and non-displayed orders in securities priced at or above $1.00. Current Adding Tier 3 would be re-named ''Adding Tier 4.''

Under proposed Adding Tier 3, the Exchange would offer the following fees for transactions in stocks with a per share price of $1.00 or more when adding liquidity to the Exchange if the ETP Holder quotes at least 5% of the NBBO [6] in 2000 or more symbols on an average daily basis, calculated monthly, and executes 0.10% or more Adding ADV as a percentage of U.S. CADV:

- $0.0009 per share for adding displayed orders;
- $0.0009 per share for orders that set a new Exchange BBO;
- $0.0011 per share for adding non-displayed orders; and
- $0.0005 per share for MPL orders.

For example, in a given month of 20 trading days, if an ETP Holder quotes at least 5% of the NBBO in 2,400 securities each day for the first 10 days and quotes at least 5% of the NBBO in 2,000 securities each day for the last 10 days, the ETP Holder would have 2,200 securities on an average daily basis that meet the 5% NBBO requirement for the billing month. If that same ETP holder executes 10.5 million shares Adding ADV in that same month where U.S. CADV was 7 billion shares, or 0.15% as a percentage of U.S. CADV, that ETP holder would meet the qualifications for Adding Tier 3.

Elimination of Volume Requirement Waiver

As reflected in footnote * of the Schedule of Fees and Rebates, the volume requirements for the current Taking Tier is waived. The Exchange

[4] To satisfy the 5% requirement, ETP Holders must maintain a bid or an offer at the NBB or the NBO for at least 5% of the trading day in round lots in a security for that security to count toward the tier requirement. The terms ''NBB,'' ''NBO,'' ''NBBO,'' and ''BBO'' are defined in NYSE National Rule 1.1.

[5] The term ''BBO'' is defined in Rule 1.1 to mean the best bid or offer that is a Protected Quotation on the Exchange. The term ''BB'' means the best bid that is a Protected Quotation on the Exchange and the term ''BO'' means the best offer that is a Protected Quotation on the Exchange.

[6] *See* note 5, *supra.*

proposes to eliminate the waiver for the Taking Tier. To effect this change, the Exchange would delete ''Taking Tier'' from footnote *.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders 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,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] 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.

Adding Tier 2 Requirements

The Exchange believes that requiring ETP Holders to execute 0.25% or more Adding average daily volume as a percentage of U.S. CADV in addition to quoting at least 5% of the NBBO in 1,000 or more symbols on an average daily basis, calculated monthly, in order to qualify for the Adding Tier 2 fees is reasonable, equitable and not unfairly discriminatory because it would encourage additional liquidity on the Exchange and because members and member organizations benefit from the greater amounts of liquidity that will be present on the Exchange. The Exchange believes the proposed changes are equitable and not unfairly discriminatory because it would continue to encourage member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed changes will encourage the submission of additional liquidity to a national securities exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity that are present on the Exchange. Moreover, the proposed changes are equitable and not unfairly discriminatory because they would apply equally to all qualifying member organizations that add liquidity to the Exchange and quote at the NBBO. The Exchange notes that ETP Holders will now have two ways to meet the requirements to qualify for Adding Tier 2, one of which is described below.

Similarly, the Exchange believes that providing an alternative way for ETP Holders to qualify for the Adding Tier 2 rates when adding liquidity to the Exchange if the ETP Holder quotes at least 5% of the NBBO in 2,500 or more symbols on an average daily basis, calculated monthly and 0.10% or more Adding ADV as a percentage of U.S. CADV is reasonable, equitable and not unfairly discriminatory because the proposed change would also encourage the submission of additional liquidity to a national securities exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The requirement for a higher number of symbols quoting at least 5% of the NBBO will encourage ETP Holders to quote at the NBBO, which contributes to price discovery and benefits all market participants. Once again, the proposed change is equitable and not unfairly discriminatory because the alternate qualification method would apply equally to all similarly situated ETP Holders that add liquidity to the Exchange and quote at the NBBO.

Proposed Adding Tier 3

The Exchange believes that the proposed Adding Tier 3 fees for ETP Holder with at least 5% of the NBBO in 2000 or more symbols on an average daily basis, calculated monthly, and 0.10% or more Adding ADV as a percentage of U.S. CADV are reasonable because the proposed tiers would further contribute to incentivizing ETP Holders to provide increased displayed liquidity on the Exchange, benefiting all ETP Holders. In addition, the Exchange believes that the proposed Adding Tier 3 fees are equitable and not unfairly discriminatory as all similarly situated market participants who add liquidity to the Exchange and quote at the NBBO will be subject to the same fees on an equal and non-discriminatory basis.

Elimination of Volume Requirement Waiver

The Exchange believes it is reasonable to eliminate waiver of the Taking Tier volume requirements because the waiver [sic] will encourage additional liquidity on the Exchange and because members and member organizations benefit from the greater amounts of liquidity that will be present on the Exchange. The proposed elimination of the waiver is not unfairly discriminatory because it will apply equally to all similarly situated ETP Holders that add liquidity to the Exchange. The Exchange notes that the requirement, 50,000 Adding ADV, is much smaller when compared with the Adding ADV requirements for Adding Tier 2, Adding Tier 3, and Adding Tier 4.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing 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,[9] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) & (5).

[9] 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2018–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2018–22. 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; the Commission does not edit personal identifying information from submissions. 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–NYSENAT–2018–22 and should be submitted on or before November 2,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22209 Filed 10–11–18; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84381; File No. SR–NYSEArca–2018–72]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Listing and Trading of Shares of the First Trust Ultra Short Duration Municipal ETF Under NYSE Arca Rule 8.600–E

October 5, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 28, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the First Trust Ultra Short Duration Municipal ETF under NYSE Arca Rule 8.600–E (''Managed Fund Shares''). 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, 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 list and trade shares (''Shares'') of the First Trust Ultra Short Duration Municipal ETF (''Fund'') under NYSE Arca Rule 8.600–E,[4] which governs the listing and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') has approved Exchange listing and trading shares of actively managed funds 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 under Rule 8.600); 80865 (June 6, 2017), 82 FR 26970 (June 12, 2017) (order approving listing and trading of shares of the Franklin Liberty Intermediate Municipal Opportunities ETF and Franklin Liberty Municipal Bond ETF under NYSE Arca Equities Rule 8.600); 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short

trading of Managed Fund Shares.[5] The Shares will be offered by First Trust Exchange-Traded Fund III (the ''Trust''), which is registered with the Commission as an open-end management investment company.[6] The Fund is a series of the Trust.

First Trust Advisors L.P. will be the Fund's investment adviser (''Adviser''). First Trust Portfolios L.P. will be the Fund's distributor. Brown Brothers Harriman & Co. will serve as custodian (''Custodian'') and transfer agent (''Transfer Agent'') for the Fund.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer, and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable adviser will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

First Trust Ultra Short Duration Municipal ETF

According to the Registration Statement, the Fund will seek to provide federally tax-exempt income consistent with capital preservation. Under normal market conditions,[8] the Fund will seek to achieve its investment objective by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes (collectively, ''Municipal Securities'').[9]

According to the Registration Statement, the Fund may invest in the following Municipal Securities:

- Municipal lease obligations (and certificates of participation in such obligations),
- municipal general obligation bonds,
- municipal revenue bonds,
- municipal notes,
- municipal cash equivalents,
- alternative minimum tax bonds,
- private activity bonds (including without limitation industrial development bonds),
- securities issued by custodial receipt trusts,[10] and
- pre-refunded and escrowed to maturity bonds.

The Fund may purchase new issues of Municipal Securities on a when-issued or forward commitment basis.

The Municipal Securities in which the Fund invests may be fixed, variable or floating rate securities.

Other Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in Municipal Securities as described above, the Fund may, under normal market conditions, invest up to 20% of its net assets in the aggregate in the securities and financial instruments described below.

The Fund may hold cash and cash equivalents.[11] In addition, the Fund may hold the following fixed income securities with maturities of three months or more: Fixed rate and floating rate U.S. government securities;

Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600); 82166 (November 29, 2017), 82 FR 57497 (December 5, 2017) (SR–NYSEArca–2017–90) (order approving listing and trading of shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E). The Commission also has 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 Equities Rule 5.2(j)(3). *See* Securities Exchange Act Release No. 63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120).

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On August 17, 2018, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–176976 and 811–22245) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5). The Exchange represents that, on a temporary basis, including for defensive purposes, during the initial invest-up period (for purposes of this filing, *i.e.,* the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (for purposes of this filing, *i.e.* rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objectives. According to the Exchange, the Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

[9] Municipal Securities are generally issued by or on behalf of states, territories or possessions of the U.S. and the District of Columbia and their political subdivisions, agencies, authorities and other instrumentalities.

[10] According to the Registration Statement, custodial receipts are financial instruments that are underwritten by securities dealers or banks and evidence ownership of future interest payments, principal payments or both on certain municipal securities.

[11] For purposes of this filing, the term ''cash equivalents'' has the meaning specified in Commentary .01(c) to NYSE Arca Rule 8.600–E.

certificates of deposit; bankers' acceptances; repurchase agreements; bank time deposits; and commercial paper.

The Fund may hold the following derivative instruments: U.S. Treasury futures contracts; interest rate futures; futures on fixed income securities or fixed income securities indexes; and exchange-traded and over-the-counter (''OTC'') credit default swaps, interest rate swaps, swaps on fixed income securities and swaps on fixed income securities indexes.

The Fund may invest in the securities of exchange-traded funds (''ETFs''), or acquire short positions in such ETFs.[12]

The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV[13] only in large blocks of Shares (''Creation Units'') in transactions with authorized participants, generally including broker-dealers and large institutional investors (''Authorized Participants''). Creation Units generally will consist of 50,000 Shares. The size of a Creation Unit is subject to change. As described in the Registration Statement, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the ''Creation Basket'').[14] In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments (which may include cash-in-lieu amounts) with the lower value will pay to the other an amount in cash equal to the difference (referred to as the ''Cash Component'').

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor and the Transfer Agent with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the Transfer Agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., E.T.) (the ''Closing Time'') in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day. The Custodian, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day prior to commencement of trading in the Shares.

Availability of Information

The Fund will disclose on the Fund's website (*www.ftportfolios.com*) at the start of each business day the identities and quantities of the securities and other assets held by the Fund that will form the basis of the Fund's calculation of its NAV on that business day. The portfolio holdings so disclosed will be based on information as of the close of business on the prior business day and/or trades that have been completed prior to the opening of business on that business day and that are expected to settle on the business day.

The website for the Fund will contain the following information, on a per-Share basis, for the Fund: (1) The prior business day's NAV; (2) the market closing price or midpoint of the bid-ask spread at the time of NAV calculation (the ''Bid-Ask Price''); and (3) a calculation of the premium or discount of the Bid-Ask Price against such NAV.

The Fund's portfolio holdings will be disclosed on the 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. On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The website information will be publicly available at no charge.

The approximate value of the Fund's investments on a per-Share basis, the indicative optimized portfolio value (''IOPV''), will be disseminated every 15 seconds during the Exchange Core Trading Session (ordinarily 9:30 a.m. to 4:00 p.m., E.T.).

Investors can also obtain the Fund's Statement of Additional Information (''SAI'') and shareholder reports. The Fund's SAI and shareholder reports will be available free upon request from the Trust, and those documents and Form N–CSR may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.* 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line, and from the Exchange. Quotation information from brokers and dealers or pricing services will be available for Municipal Securities. Price information for money market funds is available from the applicable investment company's website and from market data vendors. Price information for ETFs and exchange-traded futures and swaps held by the Fund is available from the applicable exchange. Price information for certain fixed income securities held by the Fund is available through the Financial Industry Regulatory Authority's (FINRA) Trade Reporting and Compliance Engine (''TRACE''). Price information for certain Municipal Securities held by the Fund is available through the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB''). Price information for cash equivalents; fixed income securities with maturities of three months or more (as described above), and OTC swaps will be available from one or more major market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements. In addition, the IOPV (which is the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3)), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major

[12] For purposes of this filing, the term ''ETFs'' includes Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, -2X, 3X or -3X) ETFs.

[13] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m., Eastern Time (''E.T.''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

[14] It is expected that the Fund will typically issue and redeem Creation Units on a cash basis; however, at times, the Fund may issue and redeem Creation Units on an in-kind (or partially in-kind) (or partially cash) basis.

market data vendors or other information providers.[15]

Investment Restrictions

The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Under normal market conditions, except for periods of high cash inflows or outflows,[16] the Fund will satisfy the following criteria:

i. The Fund will have a minimum of 20 non-affiliated issuers; [17]

ii. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; [18]

iii. No individual bond will account for more than 5% of the weight of the Fund's portfolio;

iv. The Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states;

v. The Fund will be diversified among a minimum of five different industries or sectors of the municipal bond market.[19]

Pre-refunded bonds will be excluded from the above limits. The Adviser represents that, with respect to pre-refunded bonds (also known as refunded or escrow-secured bonds, the issuer ''prerefunds'' the bond by setting aside in advance all or a portion of the amount to be paid to the bondholders when the bond is called. Generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds. The escrow would be sufficient to satisfy principal and interest on the call or maturity date and one would not look to the issuer for repayment. Because pre-refunded bonds' pricing would be valued based on the applicable escrow (generally U.S. government securities), such pre-refunded securities would not be readily susceptible to market manipulation and it would be unnecessary to apply the diversification and weighting criteria set forth above.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio will meet all such requirements except for those set forth in Commentary .01(b)(1).[20]

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified.

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of Municipal Securities, as described above, that would support the Fund's investment goal.

The Exchange believes that, notwithstanding that the Fund's portfolio may not satisfy Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will not be susceptible to manipulation. As noted above, the Fund's investments, excluding pre-refunded bonds, as described above, will be diversified among a minimum of 20 non-affiliated municipal issuers; no single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among municipal issuers in at least 10 states; and the Fund will be diversified among a minimum of five different industries or sectors of the municipal bond market.

The Exchange notes that the Commission has previously approved an exception from requirements set forth in Commentary .01(b) relating to municipal securities similar to those proposed with respect to the Fund.[21]

The Exchange notes that, other than Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will meet all other requirements of Rule 8.600–E.

Trading Halts

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 the Fund.[22] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on NYSE Arca from 4 a.m. to 8 p.m., E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on NYSE Arca is $0.01, with the exception of securities that are priced less than

[15] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[16] *See* note 8, *supra.*

[17] For the avoidance of doubt, in the case of Municipal Securities that are issued by entities whose underlying assets are municipal bonds, the underlying municipal bonds will be taken into account. Additionally, for purposes of this restriction, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, would be treated as separate, non-affiliated issuers of Municipal Securities.

[18] *See* note 17, *supra.*

[19] The Fund's investments in Municipal Securities will include investments in state and local (*e.g.,* county, city, town) Municipal Securities relating to such industries or sectors as the following: Airports; bridges and highways; hospitals; housing; jails; mass transportation; nursing homes; parks; public buildings; recreational facilities; school facilities; streets; and water and sewer works.

[20] Commentary .01(b)(1) to NYSE Arca Rule 8.600–E provides that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

[21] *See* Securities Exchange Act Release Nos. 82974 (March 30, 2018), 83 FR 14698 (April 5, 2018) (SR–NYSEArca–2017–99) (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 the Hartford Schroders Tax-Aware Bond ETF Under NYSE Arca Rule 8.600–E); 82166 (November 29, 2017), 82 FR 57497 (December 5, 2017) (SR–NYSEArca–2017–90) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E). *See also,* Securities Exchange Act Release 83982 (August 29, 2018) (SR–NYSEArca–2018–62) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the American Century Diversified Municipal Bond ETF under NYSE Arca Rule 8.600–E).

[22] *See* NYSE Arca Rule 7.12–E.

$1.00 for which the MPV for order entry is $0.0001.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. Consistent with NYSE Arca Rule 8.600–E(d)(2)(B)(ii), the Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [23] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Fund's investments will be consistent with the Fund's investment goal and will not be used to enhance leverage.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by 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 in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[24]

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, ETFs and certain futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs and certain futures from such markets and other entities.[25] In addition, the Exchange may obtain information regarding trading in the Shares, ETFs and certain futures 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 the Fund reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on 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 the Fund on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (4) how information regarding the IOPV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [26] 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 will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs and certain futures 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, ETFs and certain futures from such markets and other entities. In addition, the Exchange may obtain

[23] 17 CFR 240.10A–3.

[24] 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.

[25] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[26] 15 U.S.C. 78f(b)(5).

information regarding trading in the Shares, ETFs and certain futures 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 the Fund reported to TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. The Adviser is not a registered broker-dealer but is affiliated with a broker-dealer. The Adviser has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio.

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified. As noted above, the Fund's investments will be well-diversified in that the Fund, excluding pre-refunded bonds, as described above, will have a minimum of 20 non-affiliated municipal issuers; no single municipal issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among municipal issuers in at least 10 states; and the Fund will be diversified among a minimum of five different industries or sectors of the municipal bond market. With respect to the proposed exclusion for pre-refunded bonds described above, generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds. The escrow would be sufficient to satisfy principal and interest on the call or maturity date and one would not look to the issuer for repayment. Because pre-refunded bonds' pricing would be valued based on the applicable escrow (generally U.S. government securities), such pre-refunded securities would not be readily susceptible to market manipulation and it would be unnecessary to apply the diversification and weighting criteria set forth above in ''Investment Restrictions.''

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of municipal securities, as described above, that would support the Fund's investment objective.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line, and from the national securities exchange on which they are listed. Quotation information from brokers and dealers or pricing services will be available for Municipal Securities. Price information for money market funds is available from the applicable investment company's website and from market data vendors. Price information for ETFs and exchange-traded futures and swaps held by the Fund is available from the applicable exchange. Price information for certain fixed income securities held by the Fund is available through FINRA's TRACE. Price information for certain Municipal Securities held by the Fund is available through EMMA of the MSRB. Price information for cash equivalents; fixed income securities with maturities of three months or more (as described above), and OTC swaps will be available from one or more major market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the 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 inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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 an additional type of actively-managed exchange-traded product that principally holds municipal securities and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares 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, as noted above, investors will have ready access to information regarding the Fund's holdings, IOPV, Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that principally holds 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A)(iii) of the Act[27] and Rule 19b–4(f)(6) thereunder.[28] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6)[30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the waiver of the 30-day delayed operative date is consistent with the protection of investors and the public interest because the Commission has previously approved an exception from requirements set forth in Commentary .01(b) relating to municipal securities similar to those proposed with respect to the Fund.[32] Additionally, the Exchange asserts that waiver will permit the prompt listing and trading of an additional issue of Managed Fund Shares that principally holds municipal securities, which will enhance competition among issuers, investment advisers and other market participants with respect to listing and trading of issues of Managed Fund Shares that hold municipal securities. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed continuing listing standards for the Shares are substantially similar to those applicable to others approved by the Commission for similar funds. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[33]

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)[34] 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–2018–72 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–2018–72. 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–NYSEArca–2018–72, and should be submitted on or before November 2,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22210 Filed 10–11–18; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6) (iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and 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.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* note 21, *supra.*

[33] 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).

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Federal Register Notice of Public Meeting

AGENCY: National Women's Business Council, Small Business Administration.

ACTION: Notice of open public meeting.

DATES: The Public Meeting will be held on Thursday, October 25, 2018, from 8:30 to 10:30a.m. EST.

ADDRESSES: The meeting will be held at the Washington, DC Women's Business Center located at 740 15th Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. To RSVP and confirm attendance, the general public should email Ashley Judah at *Ashley.Judah@sba.gov* with subject line—''RSVP for 10/25/18 Public Meeting.''

For more information, please visit the NWBC website at *www.nwbc.gov* or call 202–205–6829.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), the National Women's Business Council (NWBC) announces its first public meeting of Fiscal Year 2019. NWBC was created in 1988 by H.R. 5050, *the Women's Business Ownership Act,* to serve as an independent source of advice and policy recommendations

to the President, the Congress, and the Administrator to the U.S. Small Business Administration (SBA), on issues of importance to women business owners and entrepreneurs.

This meeting will celebrate the 30th anniversary of the establishment of NWBC and the SBA's Office of Women's Business Ownership. It will focus on the past 30 years of growth and accomplishments of women business owners, made possible by the passage of H.R. 5050. This meeting will also look ahead to the future of women's business enterprise. SBA Administrator Linda McMahon will be participating as a speaker.

Dated: October 2, 2018.

Nicole Nelson,

Committee Management Officer (Acting).

[FR Doc. 2018–22037 Filed 10–11–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10584]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Luigi Valadier: Splendor in 18th Century Rome'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Luigi Valadier: Splendor in 18th Century Rome,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Frick Collection, New York, New York, from on or about October 31, 2018, until on or about January 20, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–15 of September 28, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–22228 Filed 10–11–18; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36203]

The Indiana Rail Road Company and CSX Transportation Inc.—Joint Relocation Project Exemption—Terre Haute, Ind.

On September 27, 2018, the Indiana Rail Road Company (INRD) filed a verified notice of exemption under 49 CFR 1180.2(d)(5) to enter into a joint project with CSX Transportation, Inc. (CSXT), involving the relocation of a segment of INRD's rail line in Terre Haute, Ind.

The purpose of the joint relocation project is to allow for the removal of the existing crossing diamond at Spring Hill Interlocking on the southeast side of Terre Haute, reduce maintenance expenses, and simplify track configuration and train operations at the crossing. The joint relocation project notice covers the following actions:

(1) INRD will acquire overhead trackage rights on CSXT's CE&D subdivision extending from the connection with INRD's Hulman Lead at approximately CSXT milepost 0ZA 182.09 to the newly constructed INRD Connection at CSXT milepost 0ZA 182.13 at Spring Hill, a distance of approximately 0.04 miles in Terre Haute.

(2) INRD will relocate and reconfigure approximately 800 feet of track southeast of Spring Hill crossing to create the new INRD Connection.

(3) The diamond at Spring Hill and approximately 1000 feet of INRD track northwest of Spring Hill crossing will be removed.

INRD states that there are no shippers on the involved trackage, and existing INRD service and operations will be preserved. Thus, INRD states no shippers will be adversely affected by the proposed joint relocation project or lose access to any rail service currently provided by INRD.

The Board will exercise jurisdiction over the abandonment, construction, or sale components of a joint relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track or transfer of existing track involves expansion into new territory, or a change in existing competitive situations. *See City of Detroit* v. *Canadian Nat'l Ry.,* 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne Cty. Port Auth.* v. *ICC,* 59 F.3d 1314 (D.C. Cir. 1995); *Flats Indus. R.R. & Norfolk S. Ry.—Joint Relocation Project Exemption—in Cleveland, Ohio,* FD 34108 (STB served Nov. 15, 2001). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See Detroit, Toledo & Ironton R.R.—Trackage Rights—Between Wash. Court House & Greggs, Ohio—Exemption,* 363 I.C.C. 878 (1981).

Under these standards, the incidental trackage rights and construction components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

The transaction may be consummated on or after October 27, 2018, the effective date of the exemption (30 days after the verified notice was filed).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions to stay must be filed by October 19, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36203, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

Board decisions and notices are available on our website at *www.stb.gov.*

Decided: October 9, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–22246 Filed 10–11–18; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2018–0001]

Exclusion of Particular Products From the Solar Products Safeguard Measure; Correction

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; correction.

SUMMARY: The Office of the United States Trade Representative published a document in the **Federal Register** of September 19, 2018, concerning a determination to exclude certain products from the safeguard measure on solar products. This notice corrects an error in that document—the time the modifications became applicable should have referenced Eastern Daylight Time (EDT).

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at *vmroczka@ustr.eop.gov* or (202) 395–9450, or Dax Terrill, Office of General Counsel, at *Dax.Terrill@ustr.eop.gov* or (202) 395–4739.

Correction: In the **Federal Register** of September 19, 2018, in FR Doc. 2018–20342, 83 FR 47393–94, on page 47393, under the heading **DATES** in the first column, and on page 47394, under the heading 'V. Annex' in the second column, correct the date and time with respect to articles entered, or withdrawn from a warehouse for consumption, to read: On or after 12:01 a.m. EDT, on September 19, 2018.

Jeffrey Gerrish,

Deputy U.S. Trade Representative.

[FR Doc. 2018–22213 Filed 10–11–18; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to statute and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. Those actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway project will be barred unless the claim is filed on or before March 11, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Swonke, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice announces actions taken by TxDOT and Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE) or Environmental Assessment (EA) issued in connection with the projects and in other key project documents. The CE or EA, and other key documents for the listed projects are available by contacting TxDOT at the address provided above.

This notice applies to all TxDOT and 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. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act, 42 U.S.C. 7401–7671(q).
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.
8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. IH 30 from Bass Pro Drive to Dalrock Road in Dallas and Rockwall Counties, Texas. The proposed improvements would consist of the construction of a continuous six-lane frontage road system crossing Lake Ray Hubbard along IH 30 in Garland and Rowlett, Texas. The improvements also include the construction of a new bridge for Bayside Drive, a southbound Dalrock Bypass to eastbound IH 30 frontage road, the reconstruction of the interchange at Dalrock Road, and associated ramp modifications. The proposed project would consist of three frontage road lanes in each direction with two 12-foot inside travel lanes and one outside 14-foot shared use lane with curb and gutter and associated entrance and exit ramp alignment modifications. An 8-foot sidewalk would be constructed along the westbound outer lane of the frontage road for pedestrian accommodation. A 12-foot shared-use path would be constructed along the eastbound outer frontage road lane for both bicyclists and pedestrian accommodation. The length of the proposed project is approximately 2.51 miles. The purpose of the proposed project is to reduce traffic congestion, improve mobility and enhance safety in the project area. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the documentation supporting the Categorical Exclusion (CE) Determination approved on September 7, 2018, and other documents in the TxDOT project file. The CE Determination and other documents are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

2. U.S. 281 from FM 3248 to FM 1421 in Cameron County. The proposed project would widen U.S. 281 within the described limits from two to four lanes, with intermittent right-turn lanes and dedicated center left-turn lanes at major intersections. The proposed project is approximately 5.2 miles in length, and the purpose of the project is to improve mobility and increase the operational efficiency of US 281. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on December 10, 2015, the Finding of No Significant Impact (FONSI) issued on December 10, 2015, and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956) 702–6102. The EA and FONSI can also be viewed and downloaded from the following website: *https://www.txdot.gov/inside-txdot/projects/studies/pharr/us281-military.html.*

3. U.S. 83 Relief Route at La Joya/Penitas from 0.85 Mile East of FM 886 (El Faro Road) to 0.28 Mile West of Showers Road, Hidalgo County. The ultimate proposed project consists of four main lanes, with two 12-foot main lanes in each direction with 4-foot wide inside shoulder and 10-foot wide outside shoulder. Additional elements include frontage roads consisting of two 12-foot wide lanes in each direction with 4-foot wide inside shoulder and 10-foot wide outside shoulder (Phase I); three overpasses; controlled access ramps providing connectivity between frontage roads and main lanes, and direct connectors between existing U.S. 83 and the proposed U.S. 83 Relief Route. The project length is approximately 9.24 miles. The purpose of the proposed project is to reduce congestion, improve mobility and safety, and improve corridor connectivity. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on February 3, 2015, the Finding of No Significant Impact (FONSI) issued on February 3, 2015, and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956) 702–6102.

4. FM 494 (Shary Road) from SH 107 to FM 1924 (Mile 3 North Road), Hidalgo County. The proposed project would widen and reconstruct FM 494 (Shary Road) for a distance of approximately 4.4 miles within the described limits. The proposed project would provide a roadway with four 12-foot wide travel lanes, two 10-foot wide shoulders, and a 16-foot wide continuous left turn lane within a proposed 120-foot wide right-of-way. The purpose of the proposed project is to improve mobility, provide pedestrian accommodations, and complete the roadway network. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on April 26, 2017, the Finding of No Significant Impact (FONSI) issued on April 26, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956) 702–6102. The EA and FONSI can also be viewed and downloaded from the following website: *https://www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings/pharr/051217.html.*

5. Owassa Road from Jackson Road to I–69C, Hidalgo County. The proposed project involves widening the existing facility to a four-lane major collector, comprising an 11-foot inside travel lane in each direction, a 14-foot shared-use outside lane in each direction, a 12-foot continuous center left-turn lane, and five-foot sidewalks on each side of the roadway. The project length is 1.1 miles. The project purpose is to correct existing design deficiencies and allow for a more continual flow of traffic than currently exists, as well as to improve the existing drainage system. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on December 15, 2015, the Finding of No Significant Impact (FONSI) issued on December 15, 2015, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956) 702–6102.

6. Mile 6 West Road from Mile 9 North to SH 107, Hidalgo County. The proposed project would widen the existing roadway from two to four lanes for a distance of 7.5 miles. The two mile urban section, from Mile 9 North to Mile 11 North, would consist of an urban curb and gutter section with four 12-foot wide travel lanes (two in each direction,) a 14-foot continuous center left turn lane, 10-foot shoulders, six-foot wide sidewalks on both sides of the road and a storm sewer drainage system. The remaining 5.5 mile rural section, from Mile 11 North to SH 107, would accommodate four 11-foot travel lanes (two in each direction), center turn lane at intersections, and 8-foot shoulders. The project is proposed to address current and projected transportation demands, facility deficiencies, and to improve safety. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final

Environmental Assessment (EA) approved on December 15, 2015, the Finding of No Significant Impact (FONSI) issued on December 15, 2015, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956) 702–6102.

7. Liberty Boulevard from U.S. 83 to FM 2221, Hidalgo County. The proposed project involves construction of a 69-foot wide five lane urban roadway consisting of a 14-foot wide continuous center turn lane, two 12-foot wide inside travel lanes, two 14-foot wide outside shared use lanes, and a five foot wide sidewalk on the west side of the roadway from U.S. 83 to Mile 3 Road (Phase I), and a 44-foot wide rural roadway consisting of two 12 foot wide travel lanes and two 10-foot wide shoulders from Mile 3 Road to FM 2221 (Phase II). The length of the proposed project is approximately 6.2 miles. The purpose of the proposed project is to develop long-term transportation improvements along this corridor and in the region, and to alleviate congestion and improve circulation. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on September 29, 2015, the Finding of No Significant Impact (FONSI) issued on September 29, 2015, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956)702–6102.

8. Dicker Road from Spur 115 (23rd Street) to FM 2061 (South Jackson Road), Hidalgo County. The proposed project involves widening Dicker Road from two lanes with roadside ditches to a curb and gutter section with two 12-foot wide travel lanes, two 14-foot wide outside shared use lanes, and a 14-foot wide continuous left-turn lane. The length of the proposed project is 2.56 miles. The project is proposed to reduce congestion and enhance safety by accommodating projected traffic volumes. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on January 25, 2016, the Finding of No Significant Impact (FOSNI) issued on January 25, 2016, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956)702–6102.

9. Mile 3 North Road from FM 492 to FM 2221 in Hidalgo County. The proposed project involves: Widening and reconstructing the existing Mile 3 North Road to a four lane roadway from FM 492 to Tom Gill Road (Section I), a distance of 3.5 miles; extending Mile 3 North Road as a two lane roadway on new location from Tom Gill Road to FM 2221 (Section II), a distance of 2.5 miles; realigning the FM 492 (Goodwin Road) intersection; and providing a new location drainage outfall. The project is located partially in Peñitas, Texas and the remainder is in Hidalgo County, Texas jurisdiction. The purpose of the project is to improve mobility and drainage, as well as enhance the local and regional transportation network. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on April 7, 2017, the Finding of No Significant Impact (FONSI) issued on April 7, 2017, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956)702–6102.

10. FM 2220 (Ware Road) from Auburn Avenue (Mile 5) to FM 1924 (Mile 3/Buddy Owens), Hidalgo County. The proposed project will widen and reconstruct the rural roadway to a 101-foot wide urban roadway with six 11.5-foot wide travel lanes, two eight foot wide shoulders, a 14-foot wide raised median with directional openings, and five foot wide sidewalks on both sides of the roadway within a 120 foot right-of-way. The project length is two miles. The purpose of the proposed project is to reduce congestion, improve mobility, enhance safety and provide improved traffic flow. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on September 29, 2015, the Finding of No Significant Impact (FONSI) issued on September 29, 2015, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956)702–6102.

11. SH 365 from FM 1016/Conway Avenue to U.S. 281/Military Highway, Hidalgo County. The proposed project involves construction of an interim four-lane divided controlled access toll facility, with an ultimate facility consisting of six travel lanes divided by a flushed median with concrete barrier. The 16.53 mile long proposed toll facility would be constructed on new location within a typical 300-foot right-of-way, varying from 160- to 400-foot. Also included are non-toll improvements along U.S. 281/Military Highway and a 0.70 mile long one-lane connector to the Pharr Border Safety Inspection Facility. The purpose of the proposed facility is to improve east-west mobility and interconnectivity to distribute traffic between existing and planned border crossings; to reduce community disruption south of I–2/U.S. 83 associated with increased freight movement; and address safety concerns within the arterial and local street network. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on July 2, 2015, the Finding of No Significant Impact (FONSI) issued on July 2, 2015, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W U.S. Expressway 83, Pharr, TX 78577–1231; telephone: (956)702–6102.

12. Interstate Highway (IH) 635 (LBJ Freeway—East Section) from U.S. 75 to IH 30 in Dallas County. The proposed improvements would include the addition of one 12-foot general purpose lane in each direction for a total of ten general purpose lanes. The proposed project would also include the addition of one managed lane in each direction, located between the eastbound and westbound general purpose lanes in the median from east of U.S. 75 to Royal Lane/Miller Road for a total of four manage lanes, and the addition of one express lane in each direction, located in the median between the eastbound and westbound general lanes from Royal Lane/Miller Road to north of I–30 interchange for a total of four express lanes. Two and three lane frontage roads would be added to link the non-continuous frontage roads in each direction and reconstruct the existing frontage roads to accommodate other corridor improvements. All arterial street overcrossings and undercrossings

would be reconstructed. The interchange at IH 30 and IH 635 would also be reconstructed. The length of the proposed project is approximately 11 miles. The purpose of the proposed project is to provide traffic congestion relief on the IH 635 facility and on the surrounding arterial street system. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA) approved on January 30, 2003, Finding of No Significant Impact (FONSI) issued on January 30, 2003 and other documents in the TxDOT project file. The most recent project reevaluation was approved on April 24, 2017. The EA and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

Authority: 23 U.S.C. 139(l)(1).

Issued on: October 1, 2018.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2018–21719 Filed 10–11–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue NW, Washington, DC, on October 30, 2018 at 9:30 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Securities Industry and Financial Markets Association.

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues and conduct a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Public Law 103–202, 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions and financing estimates. This briefing will give the press an opportunity to ask questions about financing projections. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: October 5, 2018.

Fred Pietrangeli,

Director for Office of Debt Management.

[FR Doc. 2018–22219 Filed 10–11–18; 8:45 am]

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Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2018–0090]

RIN 2127–AL83

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes amendments to Federal Motor Vehicle Safety Standard (''FMVSS'') No. 108; *Lamps, reflective devices, and associated equipment,* to permit the certification of adaptive driving beam headlighting systems, if the manufacturer chooses to equip vehicles with these systems. Toyota Motor North America, Inc. (Toyota) petitioned NHTSA for rulemaking to amend FMVSS No. 108 to permit manufacturers the option of equipping vehicles with adaptive driving beam systems. NHTSA has granted Toyota's petition and proposes to establish appropriate performance requirements to ensure the safe introduction of adaptive driving beam headlighting systems if equipped on newly manufactured vehicles.

DATES: You should submit your comments early enough to be received not later than December 11, 2018.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. *Note:* All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Markus Price, 202–366–0098 or Mr. John Piazza, Office of Chief Counsel, Telephone: 202–366–2992. Facsimile: 202–366–3820. You may send mail to these officials at: The National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC, 20590.

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I. Executive Summary

Glare, Visibility, and Adaptive Driving Beam Technology

This proposal is intended to allow an advanced type of headlighting system referred to as adaptive driving beam to be introduced in the United States. Adaptive driving beam (''ADB'') headlamps use advanced technology that actively modifies the headlamp beams to provide more illumination while not glaring other vehicles. The requirements proposed today are intended to amend the existing regulations to permit this technology and ensure that it operates safely.

Vehicle headlamps must satisfy two different safety needs: Visibility and glare prevention. The primary function of headlamps is to provide forward visibility. At the same time, there is a risk that intense headlamp illumination may be directed towards oncoming or preceding vehicles. Such illumination, referred to as glare, can reduce the ability of other drivers to see and cause discomfort. Headlighting has therefore traditionally entailed a trade-off between long-distance visibility and glare. This is reflected in the requirement that headlamp systems have both lower and upper beams. The existing headlight requirements regulate

the beam pattern (photometry) of the upper and lower beams; they ensure sufficient visibility by specifying minimum amounts of light in certain areas on and around the road and prevent glare by specifying maximum amounts of light in directions that correspond to where oncoming and preceding vehicles would be.

While the benefits of improved visibility and the harmful effects of glare are difficult to quantify, they are real. For example, a recent study from the Insurance Institute for Highway Safety found that pedestrian deaths in dark conditions increased 56% from 2009 to 2016. The harmful effects of glare are highlighted by the thousands of consumer complaints NHTSA has received from the public over the years, Congressional interest, and the Agency's research. NHTSA received more than 5,000 comments in response to a 2001 Request for Comments on glare from headlamps and other frontal vehicle lamps. Most of these comments concerned nighttime glare. In 2005, Congress directed the Department of Transportation to study the risks of glare. In response to these concerns, NHTSA initiated a multipronged research program to study the risks of, and possible solutions to, glare.

ADB systems are an advanced type of headlamp beam switching technology that provides increased illumination without increasing glare. Headlamp beam switching systems were first introduced in the 1950s, and while not initially widely adopted, have more recently become widely offered as optional equipment. These traditional beam switching systems switch automatically from the upper beam to the lower beam when meeting other vehicles. ADB systems improve on this technology. They utilize advanced equipment, including sensors (such as cameras), data processing software, and headlamp hardware (such as shutters or LED arrays). ADB systems detect oncoming and preceding vehicles and automatically adjust the headlamp beams to provide less light to the occupied roadway and more light to the unoccupied roadway.

ADB technology enhances safety in two ways. First, it provides a variable, enhanced lower beam pattern that is sculpted to traffic on the road, rather than just one static lower beam pattern. It provides more illumination than existing lower beams without glaring other motorists (if operating correctly). Second, it likely will lead to increased upper beam usage. Research has shown that most drivers under-utilize the upper beams. The effects of this increase as speeds increase, because at higher speeds the need for greater seeing distance increases. ADB technology (like traditional beam switching technology) enables the driver to activate the ADB system so that it is always in use and there is no need to switch between lower beams and upper beams. In this way, the upper beam will be more widely used, and used only when there are no other vehicles present. For both these reasons, ADB has the potential to reduce the risk of crashes by increasing visibility without increasing glare. In particular, it offers potentially significant safety benefits in avoiding collisions with pedestrians, cyclists, animals, and roadside objects.

ADB systems are currently available in foreign markets but are not currently offered on vehicles in the United States. ADB systems have been permitted (and regulated) in Europe for several years. ADB systems are not, however, currently offered on vehicles in the United States. NHTSA's lighting standard, Federal Motor Vehicle Safety Standard (''FMVSS'') No. 108, has been viewed as not permitting ADB. In particular, the current lower beam photometry requirements do not appear to allow the enhanced beam that ADB systems provide. In 2013, Toyota petitioned NHTSA for rulemaking to amend FMVSS No. 108 to permit the introduction of ADB. SAE (formerly, the Society of Automotive Engineers) in 2016 published a recommended practice for ADB. And more recently, NHTSA has received multiple exemption petitions for ADB-equipped vehicles. NHTSA has granted Toyota's rulemaking petition and this proposal is our action on that grant.

The Proposed Requirements and Test Procedures

This proposal, if adopted, would amend the lighting standard to allow ADB systems on vehicles in the United States and ensure that they operate safely. ADB, like other headlamp technologies, implicates the twin safety needs of glare prevention and visibility. This proposal does three main things that, taken together, are intended to allow ADB systems and ensure that they meet these safety needs.

First, it would amend FMVSS No. 108 to allow ADB systems. We propose amendments to, among other things, the existing lower beam photometry requirements so that ADB technology is permitted.

Second, it proposes requirements to ensure that ADB systems operate safely and do not glare other motorists. ADB systems provide an enhanced lower beam that provides more illumination than the currently-allowed lower beam. If ADB systems do not accurately detect other vehicles on the road and shade them accordingly, other motorists will be glared. NHTSA is sensitive to concerns about glare due to the numerous complaints from the public that it has received, the 2005 Congressional mandate, and its own research. The proposal addresses this safety need with a combination of vehicle-level track tests and equipment-level laboratory testing requirements.

The centerpiece of the proposal is a vehicle-level track test to evaluate ADB performance in recognizing and not glaring other vehicles. We propose evaluating ADB performance in a variety of different types of interactions with either an oncoming or preceding vehicle (referred to as a ''stimulus'' vehicle because it stimulates a response from the ADB system). The stimulus vehicle would be equipped with sensors near the driver's eyes (or rearview mirrors) to measure the illuminance from the ADB headlights. We propose a variety of different scenarios that vary the road geometry (straight or curved); vehicle speeds (from 0 to 70 mph); and vehicle orientation (whether the stimulus vehicle is oncoming or preceding). The illumination cast on the stimulus vehicle would be measured and recorded throughout the test run. In order to evaluate ADB performance, we are proposing a set of glare limits. These are numeric illuminance values that would be the maximum illuminance the ADB system would be permitted to cast on the stimulus vehicle. The proposed glare limits and test procedures are based on extensive Agency research and testing. NHTSA sponsored a study that developed the glare limits that are the objective performance criteria we are proposing. NHTSA also ran extensive track tests using vehicles equipped with ECE-approved ADB systems (modified to produce U.S.-compliant beams) to develop the test procedures and scenarios. The resulting performance requirements and test procedures are intended to ensure that an ADB system is capable of correctly detecting oncoming and preceding vehicles and not glaring them.

In addition to this track test, we also propose a limited set of equipment-level laboratory-tested performance requirements to regulate glare. We propose to require that the part of the adaptive beam that is cast near other vehicles not exceed the current low beam maxima, and the part of the adaptive beam that is cast onto unoccupied roadway not exceed the current upper beam maxima. These would essentially subject the ADB system to laboratory tests of the beam

similar to what are currently required for headlights.

Third, it proposes a limited set of equipment-level laboratory-tested performance requirements to ensure that the ADB system provides sufficient visibility for the driver. The current headlamp requirements include minimum levels of illumination to ensure that the driver has a minimum level of visibility. We propose that these existing laboratory photometry tests be applied to the ADB system to ensure that the ADB beam pattern, although dynamically changing, always provides at least a minimum level of light. We propose requiring that the part of the adaptive beam that is cast near other vehicles comply with the current lower beam minima and that the part of the adaptive beam that is cast onto unoccupied roadway comply with the upper beam minima. These minimum levels of illuminance are in a direction such that they do not glare other motorists.

Regulatory Alternatives Considered: ECE Requirements and SAE J3069

NHTSA has considered a number of alternatives to this proposal. The main alternatives are the European requirements and the SAE recommended practice for ADB published in June 2016 (SAE J3069). This proposal incorporates elements of these standards, but departs from them in significant ways.

ECE Requirements

The Economic Commission for Europe (ECE) has permitted and regulated ADB under its type approval framework for several years. The ECE regulations have a variety of requirements that specifically apply to ADB. Many of these are equipment requirements that are not appropriate for a performance-oriented FMVSS. The ECE requirements also include a vehicle-level road test on public roads. The road test includes a variety of types of roads (*e.g.,* rural, urban) and types of interactions with other vehicles. The performance of the ADB system—with respect to both visibility and glare—is evaluated by the type approval engineer driving the ADB-equipped vehicle. A Federal Motor Vehicle Safety Standard is, however, statutorily required to be objective. The ECE road test is not appropriate for adoption as an FMVSS because it does not provide sufficiently objective performance criteria. The proposed track test scenarios are based, in part, on the ECE scenarios. The proposed glare limits are the objective criteria that we propose using to evaluate the performance of an ADB system as it is put through these maneuvers. In developing the proposal NHTSA tested several ADB-equipped vehicles that were type-approved to the ECE requirements. We believe that these ADB systems would able to meet the proposed requirements and test procedures.

SAE J3069

SAE published this recommended practice in June 2016, while NHTSA was developing this proposal, but after NHTSA had concluded the testing on which the proposal is based. The SAE standard is based, in part, on NHTSA's testing and research. SAE J3069 includes vehicle-level track testing as well as equipment-level laboratory testing requirements, although they differ from the proposal in important ways.

SAE J3069 sets out requirements and test procedures to evaluate ADB performance in recognizing and not glaring other vehicles. The major component of these is a vehicle-level track test for glare. The track test uses glare limits similar to (and based on) the ones developed by NHTSA. The track test, however, differs significantly from the proposed track test. The SAE test does not use actual vehicles to stimulate the ADB system, but instead uses test fixtures fitted with lamps that are intended to simulate oncoming and preceding vehicles. It also specifies a much smaller range of scenarios (for example, it only tests on straight roadway, not curves) and measures ADB illuminance only at a small number of specified distance intervals.

To test for glare SAE J3069 also includes, in addition to this track test, an equipment-level laboratory test requirement that the part of the adaptive beam directed towards an oncoming or preceding vehicle not exceed the lower beam photometric maxima. We propose a requirement very similar to this, but we also propose to require that the part of the adaptive beam directed towards unoccupied roadway not exceed the current upper beam maxima. Although this is not included in the SAE standard, we believe it is important to maintain the upper beam maxima because they too play a role in glare prevention.

To test for adequate visibility, SAE J3069 includes an equipment-level laboratory test requirement that the part of the adaptive beam directed towards unoccupied roadway comply with the lower beam minima. The proposed requirements are more stringent. They would require that this part of the adaptive beam comply with the current upper beam minima, not the lower beam minima. We believe this additional light is important. The proposal would also require that the part of the adaptive beam directed towards an oncoming or preceding vehicle meet the current lower beam minima. We believe this minimum level of illumination will ensure a minimum level of visibility (as explained above, we would also subject the dimmed portion of the adaptive beam to the lower beam maxima to ensure that the level of light is not so high as to glare other motorists).

II. Background and Safety Need

This proposal is intended to facilitate the introduction of an advanced headlighting technology referred to as adaptive driving beam (''ADB'') into vehicles sold in the United States. ADB technology is an advanced type of semiautomatic headlamp beam switching technology. More rudimentary beam switching technology was first introduced in the 1950s and was limited simply to switching between upper and lower beams. Adaptive driving beam technology is more advanced. It uses advanced sensors and computing technology that more accurately and precisely detect the presence and location of other vehicles and shape the headlamp beams to provide enhanced illumination of unoccupied portions of the road and avoid glaring other vehicles.

This proposal would amend the Federal safety standard for lighting to permit the certification of this advanced technology and specify performance requirements and compliance test procedures for these optional systems. The proposed requirements are intended to ensure that ADB systems operate safely by providing adequate visibility while not glaring oncoming or preceding vehicles. To understand what the new technology does and the proposed regulatory adjustments, it will be helpful first to provide some background on headlamp technology and NHTSA's headlamp regulations.

The Twin Safety Needs of Glare Prevention and Visibility

Vehicle headlamps must satisfy two different safety needs: Visibility and glare prevention. Headlamps provide forward visibility (and also work in conjunction with parking lamps on passenger cars and other narrow vehicles to provide conspicuity). They also have the potential to glare other motorists and road users. For this reason, headlighting systems include a lower beam and an upper beam. Lower beams (also referred to as passing beams or dipped beams) illuminate the road and its environs close ahead of the

vehicle and are intended for use during low speed driving or when meeting or closely following another vehicle. Upper beams (also referred to as high beams, main beams, or driving beams) are intended primarily for distance illumination and for use when not meeting or closely following another vehicle. The lower beam pattern is designed to produce relatively high levels of light only in the close-in forward visibility region; the upper beam is designed to produce high light levels in close-in and longer distance regions. Thus, headlighting has traditionally entailed a trade-off between forward longer-distance visibility for the driver and glare to other road users.

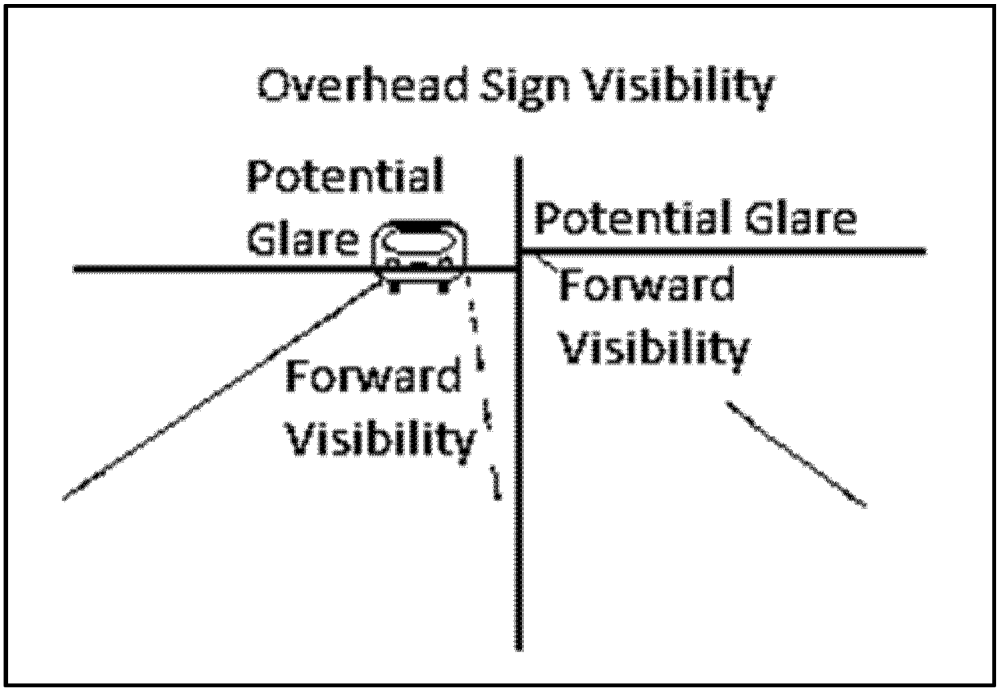

Figure 1.

Regions where one's own headlamps are likely to contribute to visibility and to glare to oncoming drivers.

Visibility and glare are both related to motor vehicle safety. Visibility has an obvious, intuitive relation to safety: The better a driver can see the road, the better he or she can react to road conditions and obstacles and avoid crashes. Although the qualitative connection to safety is intuitive, quantifying the effect of visibility on crash risk is difficult because of many confounding factors (for example, was the late-night crash because of diminished visibility or driver fatigue?). Glare, again intuitively, is related to safety because it degrades a driver's ability to see the forward roadway and any unexpected obstacles. Glare is a sensation caused by bright light in an observer's field of view. It reduces the ability to see and/or causes discomfort. Headlamp glare is the reduction in visibility and discomfort caused by viewing headlamps of oncoming or trailing vehicles (via the rearview or side mirrors).[1] Empirical evidence suggests that headlamp glare degrades important aspects of driving performance, such as decreasing the distance at which an object in or near the roadway can be seen, increasing driver reaction times, and reducing the probability a driver will detect an object.[2] It is difficult, however, to quantify the effect of glare on crash risk. Unlike drug or alcohol use, there is usually no way to determine precisely the amount of glare present in a crash. Nevertheless, some police crash reports mention glare as a potential cause, and it is reasonable to expect that reductions in visibility caused by headlamp glare increase crash risk.[3] Discomfort might also indirectly affect crash risk; for example, if a driver reacts to glare by changing her direction of gaze.[4] In addition to influencing safety, discomfort caused by glare may induce some drivers, particularly older drivers,

[1] *See generally* Nighttime Glare and Driving Performance, Report to Congress, p. ii (2007), National Highway Traffic Safety Administration, Department of Transportation [hereinafter ''2007 Report to Congress'']].

[2] 2007 Report to Congress, pp. iv, 11–14. *See also, e.g.,* John D. Bullough *et al.* 2003. An Investigation of Headlamp Glare: Intensity, Spectrum and Size, DOT HS 809 672. Washington, DC: U.S. Department of Transportation, National Highway Traffic Safety Administration [hereinafter ''Investigation of Headlamp Glare''], p. 1 (''It is almost always the case that headlamp glare reduces visual performance under driving conditions relative to the level of performance achievable without glare.'').

[3] John D. Bullough *et al.* 2008. Nighttime Glare and Driving Performance: Research Findings, DOT HS 811 043. Washington, DC: U.S. Department of Transportation, National Highway Traffic Safety Administration, p. I–4.

[4] *Id.,* p. 33. *But see* Investigation of Headlamp Glare, p. 3 (''Very few studies have probed the interactions between discomfort and disability glare, or indeed any driving-performance related factors . . . .'').

to avoid driving at night or simply increase annoyance.[5]

The potential problems associated with glare are highlighted by the thousands of complaints NHTSA has received from the public on the issue. The introduction of halogen headlamp technology in the late 1970s and high-intensity discharge and auxiliary headlamps in the 1990s was accompanied by a marked upswing in the number of glare complaints to NHTSA. In response to increased consumer complaints about glare in the late 1990s, NHTSA published a Request for Comments in 2001 on issues related to glare from headlamps, fog lamps, driving lamps, and auxiliary headlamps.[6] NHTSA received more than 5,000 comments, most of which concerned nighttime glare from front-mounted lamps.[7]

This proposal is intended to enable the adoption of ADB and help ensure that ADB systems meet these twin safety needs of glare prevention and visibility.

Headlamp Photometric Requirements

NHTSA is authorized to issue FMVSS that set performance requirements for new motor vehicles and new items of motor vehicle equipment. Each FMVSS specifies performance requirements and test procedures the Agency will use to conduct compliance testing to confirm performance requirements are met. Motor vehicle and equipment manufacturers are required to self-certify that their products conform to all applicable FMVSS. FMVSS No. 108 specifies performance and equipment requirements for vehicle lighting, including headlamps. The standard requires, among other things, that vehicles be equipped with lower and upper beams as well as a means for switching between the two. Three aspects of these requirements are especially relevant to this proposal.

First, the standard sets out requirements for the beam performance (beam pattern) of the lower and upper beam. These requirements, referred to as photometric requirements, consist of sets of test points and corresponding criterion values. Each test point is defined with respect to an angular coordinate system relative to the headlamp. (As discussed in more detail below, these requirements are for an individual headlamp, not for an entire headlighting system as installed on a vehicle.) For each test point, the standard specifies the minimum amount of photometric intensity the headlamp must provide in the direction of that test point or the maximum level of intensity the headlamp may provide toward the test point, or both. There are different photometric requirements for lower beams and upper beams.[8]

Different test points regulate different aspects of headlamp performance. With respect to the lower beam, some test points ensure the beam is providing enough visibility of the roadway; other test points ensure the beam does not glare oncoming or preceding drivers; and other test points ensure there is illumination of overhead signs. The upper beam photometric test points primarily (but not exclusively) consist of minima, and ensure sufficient light is cast far down the road. The lower beam test points consist of both minima and maxima, resulting in a beam pattern providing more illumination to the right of the vehicle centerline and less illumination to the left side of the vehicle centerline and much less light above the horizon (roughly in the area of the beam pattern an oncoming vehicle would be exposed to). The lower beam test points controlling the amount of light cast on other vehicles are test points regulating glare. This rulemaking is related to and based on the current lower and upper beam photometric test points, especially the lower beam photometric test points limiting glare to oncoming and preceding drivers.

Second, the photometric requirements, and the requirements in FMVSS No. 108 generally, are requirements for equipment, not for vehicles. There are two basic types of Federal Motor Vehicle Safety Standards: Those establishing minimum performance levels for motor vehicles, and those establishing levels for individual items of motor vehicle equipment. An example of the former is Standard No. 208, Occupant Crash Protection. That standard requires that vehicles be equipped with specific occupant protection equipment (such as seat belts or air bags) and certified as being able to pass specified whole-vehicle tests (such as a frontal crash test). FMVSS No. 108, on the other hand, is largely an equipment standard. It uses a two-step process to regulate vehicle lighting. It requires vehicle lighting equipment be manufactured to conform to its requirements (such as the headlamp photometry requirements), whether used as original or replacement equipment. These requirements are, for the most part, independent of the vehicle; they regulate lamps as individual components, not as installed on a vehicle. It also requires lamps be placed within designated bounds on a motor vehicle. Thus, except for the type, number, activation, and location of lighting, FMVSS No. 108 primarily regulates lighting as equipment independent of the vehicle. The proposed glare limits and vehicle-level track test to evaluate ADB performance in recognizing and not glaring oncoming and preceding vehicles differ from the existing photometry requirements because they are vehicle-level—not equipment-level—requirements.

Third, compliance testing for conformance to the current photometry requirements is, for the most part, conducted in a laboratory. Photometry testing is performed under strictly controlled conditions in a darkened laboratory using highly accurate light measurement sensors. The headlamp being tested is placed in a specialized fixture, and the light sensor is used to measure the amount of light at each of the photometric test points to determine whether the headlamp complies with the photometric requirement(s) for that test point. The proposed vehicle-level track test to evaluate ADB performance differs from this traditional testing because it is track-based, not laboratory-based.

Regulatory History and Research Efforts Related to Glare

FMVSS No. 108 has included photometry requirements since the inception of the standard in 1967. The standard initially adopted SAE[9] photometry requirements.[10] Since then, NHTSA has made some adjustments to the photometry requirements. For example, the requirements were amended to permit brighter upper beams[11] and to include photometric test points for overhead retroreflective signs.[12] In addition, in the mid and late 1980s, NHTSA began to explore the possibility of making FMVSS No. 108 more of a vehicle standard.[13] NHTSA began developing vehicle-level headlamp photometric specifications based on the geometry of roadways, an analysis of crash data, and the driver's ability to see.[14] The Agency then issued an NPRM to amend the headlamp

[5] 2007 Report to Congress, p. iv.

[6] 66 FR 49594 (Sept. 28, 2001).

[7] 69 FR 54255 (Sept. 8, 2004).

[8] The upper beam photometric requirements are set out in Table XVIII; the lower beam photometric requirements are set out in Table XIX.

[9] The Society of Automotive Engineers (now SAE International). SAE is an organization that develops technical standards based on best practices.

[10] *See* 54 FR 20066 (May 9, 1989) (explaining history of photometric requirements).

[11] 43 FR 32416 (July 27, 1978).

[12] 58 FR 3856 (Jan. 12, 1993).

[13] 50 FR 42735 (Oct. 22, 1985) (Request for Comments).

[14] 52 FR 30393 (Aug. 14, 1987) (Request for Comments).

requirements to make them more performance-oriented.[15] That rulemaking was terminated several years later because the technical complexities proved too difficult to surmount at that time.

NHTSA has also, at various times, taken steps to address problems and consumer complaints related to glare.[16] In the 1970s, NHTSA began research in response to consumer suggestions that vehicles should have a lower-intensity third beam for driving in well-lit areas. In the 1990s, NHTSA issued a final rule to address headlamp misaim, which is an important factor in the cause of glare.[17] In 2001, NHTSA published a Request for Comments concerning issues related to glare from headlamps, fog lamps, driving lamps, and auxiliary headlamps.[18] We observed that ''auxiliary lamps are now becoming a source of complaint for glare. Often described as another set of headlamps, sometimes mounted lower, the public reports that these lamps seem to be used all the time at night. This documented misuse of fog lamps in particular helps substantiate the complaints that NHTSA has been receiving. NHTSA has received complaints about fog lamp use for a while, but never so many as recently.'' [19] NHTSA received more than 5,000 comments in response to the 2001 notice, most of which expressed concerns about glare. In 2005 Congress directed the Department of Transportation to conduct a study of the risks associated with glare to oncoming vehicles.[20] NHTSA also issued a variety of interpretation letters concerning the permissibility of various frontal lighting concepts. Generally, NHTSA allowed low-illuminance supplementary frontal lighting such as fog lamps, but found, in at least some instances, that higher-power frontal lamps were not permitted. These interpretations are discussed in detail in Section VI below which sets out NHTSA's tentative interpretation of how FMVSS No. 108 applies to ADB.

In response to the many complaints from the public about glare and the Congressional mandate to study the risks of glare, NHTSA initiated a multipronged research program to examine the reasons for the complaints as well as possible solutions. This effort culminated in several detailed Agency reports. For example, to better understand the complaints, NHTSA conducted a survey of U.S. drivers.[21] The results showed that while, for a majority of respondents (about 54%) glare was ''noticeable but acceptable,'' a sizeable number of drivers (about 30%) rated glare as ''disturbing.'' In 2003 NHTSA published a request for comments to learn more about advanced headlighting systems that can actively change the intensity and duration of headlamp illumination (these systems were precursors of ADB technology) to evaluate whether such systems would contribute to glare.[22] In 2007, NHTSA submitted a report on glare to Congress.[23] In addition, NHTSA conducted multiple studies, using field measurements, laboratory tests, computer analyses, and vehicle tests to examine the effects of different headlamp factors on driver performance.[24]

After these efforts concluded, NHTSA has continued in recent years to study the possibilities offered by advanced frontal lighting, including its potential to reduce glare. Two recent NHTSA research studies form the basis for this proposal. In 2012, the Agency published a study (''Feasibility Study'')[25] exploring the feasibility of new approaches to regulating vehicle lighting performance, including headlamp photometry. Among other things, the study presented vehicle-based headlamp photometry requirements derived from the current requirements in Tables XVIII (upper beam) and XIX (lower beam). This included vehicle-based photometry requirements to ensure that other vehicles are not glared. NHTSA built on this effort by developing a vehicle-level track test to evaluate whether an ADB system complies with the derived photometry requirements for glare prevention (''ADB Test Report'').[26] This research was necessary because, among other things, the current photometry requirements are equipment-based requirements that involve laboratory testing, not vehicle-based requirements tested on a track. Both of these research efforts are discussed in more detail in Section IV below.

Adaptive Driving Beam Technology, Toyota Petition for Rulemaking, and SAE J3069

The last several years have seen the development of ADB headlamps in other parts of the world, including Europe. Adaptive driving beam is a ''long-range forward visibility light beam[ ] that adapts to the presence of opposing and preceding vehicles by modifying portions of the projected light in order to reduce glare to the drivers/riders of opposing and preceding vehicles.'' [27] It therefore has the potential to improve long-range visibility for the driver without glaring other road users.

ADB systems utilize advanced equipment, including sensors (such as cameras), data processing software, and headlamp hardware (such as shutters or LED arrays). ADB systems detect and identify illumination from the headlamps of oncoming vehicles and the taillamps of preceding vehicles. The system uses this information to automatically adjust the headlamp beams to provide less light to areas of the roadway occupied by other vehicles and more light to unoccupied portions of the road. ADB systems typically use the existing front headlamps with modifications that either implement a mechanical shade rotating in front of the headlamp beam to block part of the beam, or extinguish individual LEDs in headlamps using arrays of light source systems (*e.g.,* LED matrix systems). The portion of the beam directed to portions of the roadway occupied by other vehicles is at or even below levels of a traditional lower beam.[28] The portion of the beam directed at unoccupied portions of the road is typically equivalent to existing upper beams. The ADB systems NHTSA tested required that the driver manually select ADB mode using the headlighting system control and were designed to activate only at speeds above typical city driving speeds (about 20 mph).

ADB systems may be viewed as an advanced type of semiautomatic headlamp beam switching device (which is explicitly permitted as a compliance option in FMVSS No.

[15] 54 FR 20084 (May 9, 1989).

[16] *See generally* 66 FR 49594, 49596 (Sept. 28, 2001).

[17] 62 FR 10710 (Mar. 10, 1997).

[18] 66 FR 49594.

[19] 66 FR 49601.

[20] Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109–59, Sec. 2015 (2005).

[21] Perel & Singh. 2004. Drivers' Perceptions of Headlamp Glare from Oncoming and Following Vehicles, DOT HS 809 669. Washington, DC: National Highway Traffic Safety Administration.

[22] 68 FR 7101 (Feb. 12, 2003); 70 FR 40974 (July 15, 2005) (withdrawn).

[23] *See supra,* note 1.

[24] *See generally* Summary of Headlamp Research at NHTSA, DOT HS 811 006. Washington, DC: National Highway Traffic Safety Administration (2008).

[25] Michael J. Flannagan & John M. Sullivan. 2011. Feasibility of New Approaches for the Regulation of Motor Vehicle Lighting Performance. Washington, DC: National Highway Traffic Safety Administration. *See also* 77 FR 40843 (July 11, 2012) (request for comments on the report).

[26] Elizabeth Mazzae, G.H. Scott Baldwin, Adam Andrella, & Larry A. Smith. 2015. Adaptive Driving Beam Headlighting System Glare Assessment, DOT HS 812 174. Washington, DC: National Highway Traffic Safety Administration.

[27] SAE J3069 JUN2016, Sec. 3.1.

[28] SAE J3069JUN 2016, pp. 1–2.

108 [29]). Semiautomatic beam switching was first introduced in vehicles in the 1950s, and while not initially widely adopted, in recent years it has become widely offered as optional equipment. Traditional semiautomatic beam switching headlamps switch automatically from upper beam to lower beam when meeting other vehicles. Unlike ADB, however, traditional semiautomatic beam switching headlamps are not able to vary the lower beam pattern to fit the traffic on the road; they are only able to produce a single lower beam pattern.

ADB technology enhances safety in two ways. First, it provides a variable, enhanced lower beam pattern that is sculpted to traffic on the road, rather than just the one static lower beam pattern. It is thus able to provide more illumination than existing lower beams. And it does this, if operating correctly, without glaring other motorists. Second, it likely will lead to increased, appropriate, upper beam usage (in situations where other vehicles will not be glared). Research has shown that most drivers under-utilize the upper beams. ''[A]bundant evidence suggests that most drivers use lower beams primarily, if not exclusively.'' [30] Unfortunately, ''driving with lower-beam headlamps can result in insufficient visibility for a number of driving situations,'' [31] particularly at higher speeds, because at higher speeds the need for greater seeing distance increases.[32] ADB technology (like traditional beam switching technology) enables the driver to activate the ADB system so that it is always in use, obviating the need to switch between lower and upper beams. In this way, the upper beam will be more widely used, and used only when there are no other vehicles present. For both these reasons, ADB has the potential to reduce the risk of crashes by increasing visibility without increasing glare. Although isolating the effect of visibility on nighttime crash risk is difficult because of many confounding factors, there is evidence suggesting diminished visibility likely increases the risk of crashes, particularly the risk of pedestrian crashes at higher speeds, as well as crashes involving animals, trains, and parked cars.[33]

ADB was first permitted in Europe by an amendment to R48 and R123 of the Economic Commission for Europe (''ECE''). Since then vehicle manufacturers have provided ADB systems in select vehicle lines sold in Europe. For instance, the 2017 Volkswagen Passat was available in Europe equipped with an ADB system. Audi has been installing ADB on a variety of Audi models and has sold (as of the end of 2016) approximately 123,000 vehicles with ADB across 55 different markets outside the United States.[34] Additional world regions adopting ECE regulations also permit ADB.

ECE lighting requirements permit adaptive driving beam systems under the umbrella of adaptive front lighting systems, including lighting devices type-approved according to ECE R123. These systems provide beams with differing characteristics for automatic adaptation to varying conditions of use of dipped-beam (lower beam) and if it applies, the main-beam (upper beam). ECE installation requirements for ADB systems take advantage of the type-approval framework used throughout ECE standards to test whole vehicles within traffic to verify performance. The system is evaluated subjectively through observations made by the type-approval technician during a test drive consisting of various driving situations.

The automotive industry has also recently developed a recommended practice for ADB technology. In June 2016, SAE adopted SAE J3069 JUN2016, Surface Vehicle Recommended Practice; Adaptive Driving Beam (''SAE J3069''). The standard, which is based, in part, on NHTSA's Feasibility Study, specifies a track test to evaluate the performance of ADB, as well as a variety of other requirements.

Although ADB has been deployed in Europe on a limited basis, it has not yet been deployed in the United States. This is largely because of industry uncertainty about whether FMVSS No. 108 allows ADB systems.[35] NHTSA has not, until this NPRM, issued an interpretation of whether and how FMVSS No. 108 applies to ADB. In 2013, Toyota petitioned NHTSA for rulemaking to amend FMVSS No. 108 to permit manufacturers the option of equipping vehicles with ADB systems.[36] In its petition, Toyota described how its system works, identified the potential safety benefits of the system, and discussed its view of how ADB should be treated under the Agency's regulations. In this NPRM, NHTSA sets out its tentative interpretation that the existing FMVSS No. 108 prohibits ADB, while, at the same time, granting and acting on Toyota's petition to amend the standard to allow for this technology and ensure that it meets the safety needs of glare prevention and visibility.

III. ECE ADB Regulations

ECE regulations allow ADB systems under the umbrella of adaptive front lighting systems (''AFS'') under Regulation 48.[37] There are a variety of requirements for AFS generally and adaptive lighting in particular. Unlike the FMVSS, which rely on manufacturer self-certification, ECE requirements for ADB systems utilize the type approval framework used throughout the ECE standards. Under the type approval framework, production samples of new model cars must be approved by regulators before being offered for sale. This approval is based, in part, on testing whole vehicles on public roadways to verify performance. The ECE requirements specify that the adaptation of the main-beam not cause any discomfort, distraction or glare to the driver of the ADB-equipped vehicle or to oncoming and preceding vehicles. This is demonstrated through the technical service performing a test drive

[29] S9.4.1.

[30] John D. Bullough, Nicholas P. Skinner, Yukio Akashi, & John Van Derlofske. 2008. Investigation of Safety-Based Advanced Forward-Lighting Concepts to Reduce Glare, DOT HS 811 033. Washington, DC: National Highway Traffic Safety Administration, p. 63. *See also, e.g.,* Mary Lynn Mefford, Michael J. Flannagan & Scott E. Bogard. 2006. Real-World Use of High-Beam Headlamps, UMTRI–2006–11. University of Michigan, Transportation Research Institute, p. 6 (finding that ''high-beam headlamp use is low . . . consistent with previous studies that used different methods'').

[31] Investigation of Safety-Based Advanced Forward-Lighting Concepts to Reduce Glare, DOT HS 811 033, p. 63.

[32] Michael J. Flannagan & John M. Sullivan. 2011. Preliminary Assessment of The Potential Benefits of Adaptive Driving Beams, UMTRI–2011–37. University of Michigan, Transportation Research Institute, p. 2.

[33] 2007 Report to Congress, p. 6. A recent study by the Insurance Institute for Highway Safety noted that ''[t]wenty-nine percent of all fatalities during 2014 occurred in the dark on unlit roads. Although factors such as alcohol impairment and fatigue contributed to many of these crashes, poor visibility likely also played a role.'' Ian J. Reagan, Matthew L. Brumbelow & Michael J. Flannagan. 2016. The Effects of Rurality, Proximity of Other Traffic, and Roadway Curvature on High Beam Headlamp Use Rates. Insurance Institute for Highway Safety, pp. 2–3 (citations omitted). *See also* Feasibility Study, p. 5 (''The conclusion of our analysis was that pedestrian crashes were by far the most prevalent type of crash that could in principle be addressed by headlighting.''). See Appendix A for an analysis that roughly estimates the target population that could benefit from ADB technology.

[34] Letter from Thomas Zorn, Volkswagen Group of America to Dr. Mark Rosekind, Administrator, NHTSA, Petition for Temporary Exemption from FMVSS 108 (October 10, 2016), pp. 1, 7.

[35] *See, e.g.,* SAE J3069 (''However, in the United States it is unclear how ADB would be treated under the current Federal Motor Vehicle Safety Standard (FMVSS) 108.'').

[36] Letter from Tom Stricker, Toyota Motor North America, Inc. to David Strickland (Mar. 29, 2013).

[37] Regulation 48 defines AFS as ''a lighting device type-approved according to Regulation No. 123, providing beams with differing characteristics for automatic adaptation to varying conditions of use of the dipped-beam (passing-beam) and, if it applies, the main-beam (driving-beam).''

on various types of roads (*e.g.,* urban, multi-lane roads, and country roads), at a variety of speeds, and in a variety of specified traffic conditions.[38] The performance of the ADB system is evaluated based on the subjective observations of the type approval engineer during this test drive.

IV. NHTSA Research Related to ADB

There are two components to NHTSA's ADB-related research—the 2012 Feasibility Study and the 2015 ADB Test report. This research develops objective criteria and test procedures to evaluate whether an ADB system glares oncoming or preceding vehicles.

The Feasibility Study derives vehicle-based photometric requirements to control glare from the current equipment-based photometric test points in FMVSS No. 108. As explained above, the existing lower-beam photometry requirements regulate glare by specifying the maximum intensity of light permitted at certain specified portions of the lower beam that are directed towards oncoming or preceding vehicles. These requirements are set out in Table XIX of FMVSS No. 108. Four of these test points regulate headlamp glare.[39] Two of these test points correspond to locations of oncoming vehicles (*i.e.,* to the left of the lamp and slightly above horizontal),[40] and two correspond to glare to preceding vehicles (*i.e.,* to the right of the lamp and slightly above horizontal).[41] Table XIX specifies the maximum intensity of light that may be emitted in these directions. So, for example, a lower beam may not provide more than 1,000 candela[42] (cd) at 0.5 degrees up, and 1.5 degrees to the left. These photometric requirements are for an individual headlamp (as a piece of equipment, and tested in a laboratory), not for a headlighting system as installed on a vehicle.

The Feasibility Study translates these equipment requirements into vehicle-based photometric requirements for an entire headlighting system by translating them into three-dimensional space around a vehicle (picture a cloud of points in front of the vehicle). It derives groups of test points to control glare to oncoming and preceding drivers. These test points correspond to where an oncoming or preceding vehicle would be on the road in relation to the vehicle. For each of these points there is a maximum illuminance[43] level—a level of light that should not be exceeded. The maximum allowed illuminance level depends on how far in front of the vehicle the test point is. That is, the Feasibility Study derives the maximum amount of light that should be directed toward an oncoming or preceding vehicle, based on how far the oncoming or preceding vehicle is from the ADB-equipped vehicle (''derived glare limits''). Additional details on this derivation can be found in the Feasibility Study.

NHTSA conducted testing and research to develop an objective and repeatable performance test to evaluate whether an ADB system exceeds the derived glare limits. The testing was based on the ECE R48 test drive scenarios and the derived glare limits.

We evaluated and refined a range of test track scenarios based on the ECE test drive specifications. These included a variety of types of roadway geometry (*e.g.,* curved, straight, winding), and maneuver scenarios (*e.g.,* encountering an oncoming vehicle, or passing a preceding vehicle). We ran the tests on a closed test track with three types of ''stimulus'' vehicles (the vehicle that was used to interact with the ADB-equipped vehicle and stimulate the adaptive driving beam): A large stimulus vehicle, a small stimulus vehicle, and a motorcycle. Scenarios varied the speed of both the ADB-equipped vehicle and the stimulus vehicle (anywhere from stationary to 67 mph).

We also developed methods and procedures to objectively assess ADB system performance on these test track drives. As noted above, ADB performance on the ECE test drive is evaluated based on the subjective observations of the type approval engineer. NHTSA's statute requires, however, that an FMVSS be objective. To objectively measure the amount of light cast on oncoming and preceding vehicles by the ADB-equipped vehicle, the stimulus vehicle was equipped with photometers[44] mounted at locations where light from the ADB headlamps could glare the driver of the stimulus vehicle—for example, on an outside rear view mirror, or in front of the windshield near the driver's eyes.[45] The ADB-equipped vehicle and one or more of the stimulus vehicles were then run through the various driving scenarios on closed courses at a vehicle testing facility. During these test runs illuminance data from the photometers was recorded as was position data for vehicles. A variety of adjustments were made to the illuminance and position data (for example, the recorded illuminance values were adjusted to account for ambient light).

To evaluate the performance of the ADB system, NHTSA used simplified versions of the derived glare limits reported in the Feasibility Study. This resulted in two sets of glare limits: One set for glare to oncoming vehicles and one set for glare to preceding vehicles. The glare limits are specified with respect to the distance between the ADB-equipped vehicle and either the oncoming or preceding stimulus vehicle (see Table 1 and Table 2). The specified glare limit is the maximum amount of light that may be cast on an oncoming or preceding vehicle within that distance interval. The recorded illuminance values were compared with the derived glare limit corresponding to the distance at which the illuminance value was recorded. If the recorded illuminance value exceeded the derived glare limit, this was considered a test failure.

TABLE 1—LIMITS FOR GLARE TO ONCOMING VEHICLES

Range from headlamp to photometer (m)	Maximum illuminance (lux)
15.0–29.9	3.1
30.0–59.9	1.8
60.0–119.9	0.6
120.0–239.9	0.3

TABLE 2—LIMITS FOR GLARE TO PRECEDING VEHICLES

Range from headlamp to photometer (m)	Maximum illuminance (lux)
15.0–29.9	18.9
30.0–59.9	18.9
60.0–119.9	4.0
120.0–239.9	4.0

[38] *See* Annex 12 to ECE R48.

[39] More specifically, they regulate glare that comes directly from the headlamps (as opposed to headlamp glare that reflects off of, say, the road surface).

[40] 1U, 1.5L to L (700 cd maximum); 0.5U, 1.5L to L (1,000 cd maximum).

[41] 1.5U, 1R to R (1,400 cd maximum); 0.5U, 1R to 3R (2,700 cd maximum).

[42] Candela is a unit of measurement of luminous intensity. Candela is a measure of the amount of light coming from a source per unit solid angle.

[43] Illuminance is the amount of light falling on a surface. The unit of measurement for illuminance is lux. Lux is a unit measurement of illuminance describing the amount of light falling on a surface, whereas candela is a measure of the luminous intensity produced by a light source in a particular direction per solid angle. A measure of luminous intensity in candela can be converted to a lux equivalent, given a specified distance.

[44] A photometer, or illuminance meter, is an instrument that measures light.

[45] The motorcycle was not fitted with photometers because of time constraints and equipment availability. Illuminance receptors were located on a vehicle positioned adjacent to the motorcycle; this vehicle's lamps remained off to ensure that the ADB-equipped vehicle was responding only to the motorcycle's lamps.

We tested four different ADB-equipped vehicles that were approved and sold in Europe: A MY 2014 Audi A8 equipped with MatrixBeam; a MY 2014 BMW X5 xDrive35i equipped with Adaptive High-Beam Assist; a MY 2014 Lexus LS460 F Sport equipped with Adaptive High-Beam System; and a MY 2014 Mercedes-Benz E350 equipped with Adaptive Highbeam Assist. The beam patterns on the Audi and Mercedes headlamps were FMVSS No. 108-compliant. Activation speeds for these ADB systems ranged from 19 to 43 mph.[46] The Agency analyzed the research in a variety of ways, including assessments for repeatability.

In these tests, ADB appeared to provide noticeable additional roadway illumination. ADB adaptation was more apparent in some vehicles than others. However, in many cases ADB did not succeed in maintaining glare in the location of other vehicles to lower beam levels. Generally, the Agency's testing suggested that when an ADB system has a long preview of another vehicle, ADB can perform well. When an ADB system does not have a long preview of another vehicle, such as in an intersection scenario or when two vehicles are oncoming on a curved road, ADB may not adapt its beam pattern quickly enough. Additionally, some ADB system behaviors that were not expected and uncharacteristic of ADB's stated purpose were observed, such as instances of momentary engagement of the upper beam or interpreting a reflective roadside sign to be another vehicle and suddenly darkening the forward roadway. Because this research evaluated ADB systems installed on MY 2014 vehicles, current ADB systems may be capable of better performance.

The Agency's test report made a number of observations based on its analysis of the testing data. Here, the Agency notes several. First, testing confirmed the validity of the derived glare limits. For example, the illuminance of the lower beams of the ADB systems equipped with an FMVSS No. 108-compliant lower beam was within the glare limits when measured on the test track with the vehicle stationary. Second, the research demonstrated that achieving a valid whole-vehicle test procedure for assessing ADB headlighting system performance with respect to relevant performance criteria is technically feasible. The results showed that making such measurements outdoors in variable ambient illumination conditions can be performed in a valid way, by removing the measured ambient illumination from the recorded headlighting system test trial data. For example, ADB response timing seemed consistent across trials. Scenarios involving the stimulus vehicle and ADB-equipped vehicle driving toward each other showed ADB adaptation occurring at closer range between vehicles than would be seen if the stimulus vehicle is stationary because of the ADB response timing. Third, the testing showed that this whole-vehicle test procedure could be accomplished in a repeatable manner. Specific testing results are discussed in more detail in the docketed test report and data and in subsequent sections of this preamble. Repeatability is discussed in more detail in Section VIII.c.

[46] ADB Test Report, p. 20.

V. SAE J3069

In 2016, SAE published a standard for adaptive driving beam systems, SAE J3069 JUN 2016, Adaptive Driving Beam. The standard specifies a road test to determine whether an ADB system glares oncoming or preceding vehicles. The standard specifies, as performance criteria, glare limits based on and similar but not identical to the glare limits used in the ADB Test Report (See Table 3).

SAE J3069 specifies a straight test track with a single lane 155 m long. On either side of this test lane, the standard specifies the placement of test fixtures simulating an opposing or preceding vehicle. The test fixtures are fitted with lamps having a specified brightness, color, and size similar to the taillamps and headlamps on a typical car, truck, or motorcycle. The standard specifies four test fixtures: An opposing car/truck; an opposing motorcycle; a preceding car/truck; and a preceding motorcycle. In addition to simulated vehicle lighting, the test fixtures are fitted with photometers to measure the illumination from the ADB headlamps.

The standard specifies a total of eighteen different test drive scenarios. The scenarios vary the test fixture used, the placement of the fixture (*i.e.,* to the right or left of the lane in which the ADB-equipped vehicle is travelling), and whether the lamps on the test fixture are illuminated for the entire test drive, or are instead suddenly illuminated when the ADB vehicle is close to the test fixture. During each of these test runs, the illuminance recorded at 30 m, 60 m, 120 m, and 155 m must not exceed the specified glare limits. If there is no recorded illuminance value at any of these distances, interpolation is used to estimate the illuminance at that distance. For sudden appearance tests, the system is given a maximum of 2.5 seconds to react and adjust the beam. If any recorded (or interpolated) illuminance value exceeds the applicable glare limit, the standard provides for an allowance: The same test drive scenario is run, except now only the lower beam is activated. The ADB system can still be deemed to have passed the test as long as any of the ADB exceedances do not exceed 125% of the measured (or interpolated) illuminance value(s) for the lower beam.

TABLE 3—SAE J3069 GLARE LIMITS

Range from headlamp to photometer (m)	Maximum illuminance, oncoming (lux)	Maximum illuminance, preceding (lux)
30	1.8	18.9
60	0.7	8.9
120	0.3	4.0
155	0.3	4.0

In addition to the dynamic track test, the standard contains a number of other system requirements, such as physical test requirements and requirements for the telltale. It also requires the system to comply with certain aspects of existing standards for lower and upper beam photometry as measured statically in a laboratory environment (for example, for the portion of the ADB beam that is directed at areas of the roadway unoccupied by other vehicles, the lower beam minimum values specified in the relevant SAE standard must be met).

In the Proposal and Regulatory Alternatives sections of this document we discuss specific provisions of SAE J3069 in more detail.

VI. Interpretation of How FMVSS No. 108 Applies to ADB

NHTSA has never squarely addressed whether ADB technology is permitted under existing FMSS No. 108 requirements. Here we address this issue and consider requirements in FMVSS No. 108 that could pose regulatory obstacles to the introduction of ADB in the United States. We first consider whether ADB technology would be permissible under FMVSS No. 108 as supplemental lighting and conclude it is not supplemental lighting. We then consider whether an ADB system would comply with the current FMVSS No. 108 requirements for headlights. As we explain below, ADB would likely not comply with at least some of these requirements, particularly the photometry and semiautomatic beam switching device requirements. We tentatively conclude that FMVSS No. 108 currently would not permit the installation of ADB on motor vehicles.

a. ADB Is Not Supplemental Lighting But Is Part of the Required Headlamp System

The threshold issue is whether an ADB system is supplemental or required lighting. FMVSS No. 108 specifies, for each class of vehicle, certain required and optional (if-equipped) lighting elements. The standard sets out various performance requirements for the required and optional lighting elements. The standard also allows vehicles to be equipped with lighting not otherwise regulated as required or optional equipment. This type of lighting equipment is referred to as supplemental or auxiliary lighting. Supplemental lighting is permitted if it does not impair the effectiveness of lighting equipment required by the standard.[47] There are two different but related reasons leading us to tentatively conclude that an ADB system is not supplemental lighting.

First, ADB systems are not supplemental lighting because they fit the definition of ''semiautomatic beam switching device,'' a headlighting device that is specifically regulated by the standard. FMVSS No. 108 requires that vehicles be equipped with a headlamp switching device that provides ''a means of switching between lower and upper beams designed and located so that it may be operated conveniently by a simple movement of the driver's hand or foot.'' [48] As an alternative to this requirement, the standard allows a vehicle to be equipped with a semiautomatic means of switching between the lower and upper beams.[49] The standard defines ''semiautomatic headlamp beam switching device'' as ''one which provides either automatic or manual control of beam switching at the option of the driver. When the control is automatic the headlamps switch from the upper beam to the lower beam when illuminated by the headlamps on an approaching vehicle and switch back to the upper beam when the road ahead is dark. When the control is manual, the driver may obtain either beam manually regardless of the conditions ahead of the vehicle.'' [50]

We have tentatively concluded that an ADB system is a semiautomatic beam switching device under FMVSS No. 108 because an ADB system automatically switches between an upper beam and a lower beam. An upper beam is defined in the standard as ''a beam intended primarily for distance illumination and for use when not meeting or closely following other vehicles.'' [51] A lower beam is defined as ''a beam intended to illuminate the road and its environs ahead of the vehicle when meeting or closely following another vehicle.'' [52] The beam an ADB system emits when there are no preceding or oncoming vehicles is the upper beam; the beam it emits when there are preceding or oncoming vehicles is a lower beam.[53] ADB technology differs from standard headlighting technology in that it can provide a variety of lower beam patterns tailored to fit the particular traffic situation it is confronted with. For ease of reference, we will refer to the ''base'' lower beam as the lower beam pattern produced by the ADB system that is the same as the lower beam the headlighting system would produce if it were not ADB-equipped, and the ''augmented'' lower beam as the enhanced lower beam with which the system illuminates the roadway when at least some portion(s) of the forward roadway is unoccupied by other vehicles. If the forward roadway is sufficiently occupied by other vehicles (either oncoming or preceding) so there is no portion of the roadway that could be illuminated with additional light without glaring other vehicles, the ADB system produces a base lower beam; if the forward roadway is at least partially unoccupied, the system produces an augmented lower beam, in which at least some portions of the beam pattern are brighter than the corresponding portions in the pattern of the base lower beam. An ADB system can provide a variety of different augmented lower beam patterns, depending on the traffic situation. However, each of these augmented beams is, by definition, a lower beam. Because an ADB system provides either automatic or manual control of beam switching at the option of the driver, and, when the control is automatic the headlamps switch between an upper beam and a lower beam, it is a semiautomatic headlamp beam switching device. The standard has specific requirements for semiautomatic beam switching devices (we discuss these requirements in more detail below and in the Proposal section of this document). Because ADB is regulated by these requirements, it is not supplemental lighting.

Second, ADB is not supplemental lighting under NHTSA's interpretation of the term ''supplemental lighting.'' FMVSS No. 108 requires vehicles to be equipped with one of several permissible headlighting systems, whose specifications are set forth in the standard. Headlighting systems are comprised of headlamps and associated hardware. The purpose of headlighting is primarily to provide forward illumination.[54] In determining whether lighting equipment providing forward illumination is supplemental or required, NHTSA looks at several factors: (1) Where the lamp directs its light; (2) whether it uses a headlamp replaceable light source to emit a beam that provides significantly more light flux than supplemental cornering lamps or fog lamps designed to conform to applicable SAE standards; (3) whether the lamp is intended to be used regularly or is limited (as are fog lamps) to more narrow driving conditions and situations; and (4) whether there is a manual on/off switch.[55] For example, in a 2004 interpretation letter, NHTSA used these factors to evaluate a swiveling lamp included as part of a vehicle front lighting system meeting the FMVSS No. 108 requirements without the lamp. The lamp was designed to automatically enhance forward illumination around corners and through curves to improve a driver's ability to see pedestrians, bicycles, and other objects. NHTSA concluded the lamp was part of the required headlighting system, and thus not supplemental lighting, and therefore subject to the headlamp requirements.[56]

Under this analysis, we tentatively conclude an ADB system is part of the required headlighting system and not supplemental lighting. Most importantly, an ADB system, in contrast to supplemental lamps such as cornering lights or fog lamps, provides significantly more light flux forward of the vehicle and is intended to be used regularly.[57] ADB systems function, and

[47] S6.2.1.

[48] S9.4.

[49] S9.4.1.

[50] S4.

[51] *Id.*

[52] *Id.*

[53] This is consistent with SAE J3069 JUN2016, which considers ADB as ''an addition to or equivalent to the lower beam.''

[54] S4 ''*Headlamp* means a lighting device providing an upper and/or a lower beam used for providing illumination forward of the vehicle.'' (formatting in original).

[55] Letter from Jacqueline Glassman, Chief Counsel, to [Redacted] (Jan. 21, 2004) (opining that a ''swiveling lamp'' is a component of the required headlighting system). *See also* Letter from John Womack, Acting Chief Counsel, to M. Guy Dorleans, Valeo Vision (Aug. 31, 1994) (treating an auxiliary driving beam as part of the required headlighting system); Letter from Frank Berndt, Chief Counsel, to I.A. Wuddel, Hueck & Co. (Nov. 18, 1983) (treating an auxiliary driving beam as part of the required headlighting system and alternatively treating it as a supplemental light). All interpretations cited in this document are available at *https://isearch.nhtsa.gov/.*

[56] Letter from Jacqueline Glassman, Chief Counsel, to [Redacted] (Jan. 21, 2004).

[57] *See* Letter from Frank Berndt, Chief Counsel, to Robert Bosch Corp. (Feb. 11, 1977) (finding that fog

Continued

are intended to function, as the primary source of forward illumination for the vehicle when they are activated. This is a safety-critical function affecting not only the ADB-equipped vehicle but also (through glare) other vehicles. The purpose of the headlighting requirements is to ensure headlighting systems attend to both these safety-critical issues and strike an acceptable balance between forward visibility and glare. The entire purpose of ADB technology is to strike this balance more robustly and effectively. It therefore seems appropriate that ADB is considered an element of required lighting and not merely supplemental lighting.

We note that prior to the 2004 interpretation letter, NHTSA had issued several interpretations concerning auxiliary driving beams in which the Agency treated, without directly considering the issue, those lamps as supplemental lighting.[58] If the lamps in question in those earlier interpretations would be considered supplemental lighting under the factors set forth in the 2004 interpretation, they may be consistent with that later interpretation. There is not, however, sufficient information about the lighting systems at issue in those earlier interpretations letters to be able to apply the factors from the 2004 interpretation. In any case, the 2004 interpretation has been, to date, NHTSA's view on the issue. Because of the reasons given above, we tentatively conclude that changing that interpretation is not warranted at this time.

b. ADB Systems Would Not Comply With at Least Some of the Headlamp Requirements

Because we tentatively conclude that an ADB system is part of the required headlamp system, we next consider whether there are any headlamp requirements with which it would not comply. We tentatively conclude that an ADB system would likely not comply with certain of the requirements for lower beam photometry and semiautomatic beam switching devices.

i. Photometry Requirements

An ADB system would have to comply with all applicable photometry requirements. As discussed earlier, there are separate photometry requirements for lower and upper beams. The photometry requirements specify test points, with each test point specifying minimum levels of light (to ensure adequate illumination) and/or maximum levels of light (to limit glare to oncoming or preceding vehicles). When an ADB system is emitting an upper beam, the upper beam must conform to the upper beam photometry requirements, and when it is emitting a lower beam it must conform to the lower beam photometry requirements.[59]

The upper beam of an ADB system would likely be able to comply with the upper beam photometry requirements. This is because the ADB upper beam would, or should, be the same as the upper beam on the non-ADB-equipped version of that vehicle. Accordingly, an ADB system's upper beam presumably would comply with the upper beam photometric requirements.

The ADB system's lower beam, on the other hand, would probably not always comply with the lower beam photometric requirements. An ADB system can produce a variety of lower beams; each lower beam must comply with the applicable lower beam photometric requirements. The base lower beam is designed to conform to the current lower beam photometry requirements. However, the augmented lower beam(s) provide more illumination than the base lower beam would; the purpose of ADB is to produce a lower beam providing more illumination than a current FMVSS No. 108-compliant lower beam. Therefore, it is likely that the augmented lower beam would not always comply with existing lower beam photometry requirements. Toyota appears to allude to this in its petition when it states that ''[w]hile the variable beam pattern mode does occasionally emit asymmetric candlepower that is above the maxima or below the minima at certain FMVSS No. 108 test points, these differences are always designed to be consistent with satisfying the dual goals of minimizing glare to oncoming and preceding drivers and enhancing the forward and sideways illumination for the benefit of the driver in the AHS-equipped vehicle.'' [60] Volkswagen, in a recent exemption petition, also notes that ''the Audi Matrix Beam ADB system does not conform to FMVSS 108 photometric requirements at certain test points.'' [61]

We also note that in the 2003 Request for Comments regarding advanced headlighting systems mentioned earlier, the Agency considered, among other things, advanced headlighting systems that could actively re-aim the lower beam horizontally (so-called ''bending light''). NHTSA concluded that FMVSS No. 108 does not prohibit bending light headlamps because the standard does not specifically address initial or subsequent headlamp aim (the standard addresses only aimability requirements). Advanced headlighting systems that can actively re-aim the lower beam horizontally are currently available as original and replacement equipment in the U.S.

ii. Semiautomatic Beam Switching Device Requirements

We have tentatively concluded that an ADB system is a semiautomatic beam switching device under FMVSS No. 108. ADB systems could likely meet some, but not all, requirements applicable to these devices.

FMVSS No. 108 sets forth a variety of performance requirements for semiautomatic beam switching devices. ADB systems would likely be able to meet some of the existing semiautomatic beam switching device requirements: Owner's manual operating instructions (S9.4.1.1); manual override (S9.4.1.2); fail safe operation (S9.4.1.3); and automatic dimming indicator (S9.4.1.4). We propose applying these requirements to ADB systems. However, ADB systems likely would not comply with other requirements applicable to semiautomatic beam switching devices. One of the requirements is that semiautomatic headlamp beam switching devices must provide lower and upper beams complying with relevant photometry requirements. As we explain in the section immediately above, an ADB system would not comply with the lower beam

lamp is supplemental lighting); Letter from Erika Z. Jones, Chief Counsel, to M. Iwase, Koito Mfg. Co., Ltd. (March 31, 1986) (same); Letter from Erika Z. Jones, Chief Counsel, to T. Chikada, Stanley Elec. Co. (June 19, 1987) (same); Letter from Erika Z. Jones, Chief Counsel to Byung M. Soh, Target Marketing Sys., Inc. (Sept. 13, 1988) (same); Letter from Erika Z. Jones, Chief Counsel, to Sadato Kadoya, Mazda (North America), Inc. (Nov. 3, 1988) (same); Letter from Philip Recht, Chief Counsel, to Melinda Dresser, Carlin Mfg. (January 9, 1985) (same); Letter from John Womack, Acting Chief Counsel, to Yohsiaki Matsui, Stanley Elec. Co. (Sept. 20, 1995) (same).

[58] *See* Letter from Erika Z. Jones, Chief Counsel, to P. Soardo, Instituto Elettrotecnico Nazionale (May 22, 1987); Letter from S.P. Wood to Subaru of America, Inc. (Oct. 31, 1978); Letter from Erika Z. Jones, Chief Counsel, to Byung M. Soh, Target Marketing Sys., Inc. (Sept. 13, 1988); Letter from Erika Z. Jones, Chief Counsel to George Ziolo (Sept. 12, 1988); Letter from Frank Berndt, Chief Counsel, to I.A. Wuddel, Hueck & Co. (Nov. 18, 1983).

[59] We note it does not appear possible to interpret the standard so the dimmed portion of the ADB beam is subject to the lower beam photometry requirements and the undimmed portion is subject to upper beam photometry requirements because S9.4.1 prohibits simultaneous activation of upper and lower beams (except for signaling or switching, neither of which is applicable here).

[60] Letter from Tom Stricker, Toyota Motor North America, Inc. to David Strickland (Mar. 29, 2013), p. 3.

[61] Letter from Thomas Zorn, Volkswagen Group of America to Dr. Mark Rosekind, Administrator, NHTSA, Petition for Temporary Exemption from FMVSS 108 (October 10, 2016), p. 2.

photometry requirements in all instances. Other requirements include fail safe operation requirements, mounting height limitations, and a series of physical tests, including a sensitivity test. Some of these would be difficult to apply to, or would not sensibly apply to, an ADB system.

c. Tentative Determination

We tentatively conclude that ADB would not be supplemental lighting and would likely not comply with at least some of the lower beam photometric and semiautomatic beam switching device requirements. We therefore tentatively conclude that FMVSS No. 108 would, in its current form, preclude an ADB system as original or replacement equipment.

Although we tentatively conclude that an ADB system is part of the required headlighting system, we briefly consider the status of ADB technology if it were instead considered supplemental equipment. If we were to instead determine that an ADB system is supplemental lighting, it would be permissible provided it did not impair the effectiveness of any of the required lighting (S6.2.1). A vehicle manufacturer must certify that supplemental lighting installed as original equipment complies with S6.2.1 (although, as a practical matter, vehicle manufacturers generally insist that equipment manufacturers provide assurance that their products meet Federal standards). Effectiveness may be impaired if, among other things, supplemental lighting creates a noncompliance in the existing lighting equipment or confusion with the signal sent by another lamp, or functionally interferes with it, or modifies its candlepower to either below the minima or above the maxima permitted by the standard.[62] The judgment of impairment is one made by the person installing the device, although that decision may be questioned by NHTSA if it appears erroneous.

If an ADB system were installed as supplemental equipment, it would impair the effectiveness of the required headlighting system if it did not meet the Table XVIII (upper beam) test points corresponding to unoccupied portions of the road, or if it did not meet the Table XIX (lower beam) test points corresponding to portions of the road on which an oncoming or preceding vehicle was located.[63] It would, however, be difficult for NHTSA to verify this because the Table XVIII and XIX photometric test points are premised on laboratory measurements, whereas whether an ADB system is functioning properly depends on whether it is accurately detecting oncoming and preceding vehicles in actual operation on the road. Accordingly, even if NHTSA were to adopt this alternative interpretation, it still might not obviate the need for this rulemaking.

We seek comment on this tentative interpretation. In addition, we seek comment on whether there are provisions in FMVSS No. 108 we have not identified in this document that might apply to ADB systems and so should be amended.

VII. NHTSA's Statutory Authority

NHTSA is proposing this NPRM pursuant to its authority under the Motor Vehicle Safety Act. Under 49 U.S.C. chapter 301, Motor Vehicle Safety (49 U.S.C. 30101 *et seq.*), the Secretary of Transportation is responsible for prescribing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms.[64] ''Motor vehicle safety'' is defined in the Motor Vehicle Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.''[65] ''Motor vehicle safety standard'' means a minimum performance standard for motor vehicles or motor vehicle equipment.[66] When prescribing such standards, the Secretary must consider all relevant, available motor vehicle safety information.[67] The Secretary must also consider whether a proposed standard is reasonable, practicable, and appropriate for the types of motor vehicles or motor vehicle equipment for which it is prescribed and the extent to which the standard will further the statutory purpose of reducing traffic accidents and associated deaths.[68] The responsibility for promulgation of Federal motor vehicle safety standards is delegated to NHTSA.[69] The Agency carefully considered these statutory requirements in developing this proposal. We evaluate the proposal with respect to these requirements in subsequent sections of this preamble.

VIII. Proposed Requirements and Test Procedures

We propose amending NHTSA's lighting standard to allow ADB systems on vehicles in the United States and ensure that they operate safety with respect to the twin safety needs of glare prevention and visibility.

We have tentatively concluded that because ADB has the potential to provide significant safety benefits, FMVSS No. 108 should be amended in order to permit it. ADB technology has the potential to reduce the risk of crashes by increasing visibility without increasing glare. In particular, it offers potentially significant safety benefits in preventing collisions with pedestrians, cyclists, animals, and roadside objects. We have tentatively concluded, however, that ADB would not comply with FMVSS No. 108 because an ADB system is part of the required headlighting system—not supplemental lighting—and would likely not comply with at least some existing lighting requirements. Accordingly, we propose amending FMVSS No. 108 to permit ADB systems on vehicles in the U.S.

We have also tentatively concluded that in order to ensure that ADB systems operate safely, the standard should be amended to include additional requirements specific to ADB systems. Because ADB uses relatively new, advanced technology to provide an enhanced lower beam and dynamically changes the beam to accommodate the presence of other vehicles, it has the potential—if it does not function properly—to glare other motorists. NHTSA is particularly sensitive to concerns about glare in light of the history of glare complaints from the public, the 2005 Congressional mandate, and the Agency's research. Because the existing headlighting regulations (in particular, the photometry requirements) are based on and intended for the current, static beams, they do not have any requirements or

[62] *See, e.g.,* Letter from Erika Jones, Chief Counsel, to Byung M. Soh, Target Marketing Systems, Inc. (Sept. 13, 1988).

[63] *See* Feasibility Study, p. 36 (Fig. 19) (locations of upper beam test points) and p. 16 (Fig. 5) (locations of lower beam test points). *See also* Letter from Erika Z. Jones, Chief Counsel to George Ziolo (Sept. 12, 1988) (finding that a supplemental headlamp would impair the effectiveness of the headlighting system because it caused the upper beam to exceed the upper beam photometric maxima); Letter from Erika Z. Jones, Chief Counsel, to Byung M. Soh, Target Marketing Sys., Inc. (Sept. 13, 1988) (finding that a supplemental headlamp intensity modulator would impair the effectiveness of the headlighting system because it would not necessarily comply with upper or lower beam photometric requirements).

[64] 49 U.S.C. 30111(a).

[65] 49 U.S.C. 30102(a)(8).

[66] 30102(a)(9).

[67] 30111(b)(1).

[68] 30111(b) (3)–(4).

[69] *See* 49 CFR 1.95.

test procedures to evaluate whether an ADB system is functioning properly as it dynamically changes the beam to accommodate other vehicles. We therefore propose amending FMVSS No. 108 to include requirements and test procedures specifically tailored to ensure that ADB systems do not glare other motorists. NHTSA is also proposing a limited set of requirements to ensure that ADB systems provide adequate visibility at all times.

First, we propose amending FMVSS No. 108 to allow ADB systems. We propose amendments to, among other things, the lower beam photometry requirements so that the enhanced lower beam provided by ADB technology is permitted.

Second, we propose requirements to ensure that ADB systems do not glare other motorists. ADB systems provide an enhanced lower beam that provides more illumination than the currently-allowed lower beam. If ADB systems do not function properly—detect oncoming and preceding vehicles and shade them accordingly—other motorists will be glared. The proposal addresses this safety concern with a combination of vehicle-level track tests and equipment-level laboratory testing requirements.

The centerpiece of the proposal is a vehicle-level track test to evaluate ADB performance in recognizing and not glaring other vehicles. We propose evaluating ADB performance in a variety of different types of interactions with oncoming and preceding vehicles (referred to as ''stimulus'' vehicles because they stimulate a response from the ADB system). The stimulus vehicle would be equipped with sensors to measure the illuminance from the ADB system near the driver's eyes (or rearview mirrors). We propose a variety of different test scenarios. The scenarios vary the road geometry (whether it is straight or curved); vehicle speeds (from 0 to 70 mph); and vehicle orientation (whether the stimulus vehicle is oncoming or preceding). The illumination cast on the stimulus vehicle would be measured and recorded throughout the test run. In order to evaluate ADB performance in these test runs, we are proposing a set of glare limits. These are numeric illuminance values that would be the maximum allowable illuminance the ADB system would be permitted to cast on the stimulus vehicle. The proposed glare limits and test procedures are based on NHTSA's ADB-related research and are intended to ensure that an ADB system is capable of correctly detecting oncoming and preceding vehicles and not glaring them. They differ from the existing photometry requirements because they are vehicle-level requirements tested on a track.

In addition to this track test, we also propose a small set of equipment-level laboratory testing requirements related to glare prevention. We propose to require that the dimmed portion of the adaptive beam (*i.e.,* the light directed towards an oncoming or preceding vehicle) not exceed the current low beam maxima, and that in the undimmed portion of the adaptive beam (*i.e.,* the light directed towards unoccupied roadway) the current upper beam maxima not be exceeded. These tests would be carried out at the component level—on the headlamps (not installed on the vehicle) in a photometric laboratory. These proposed requirements would essentially subject the ADB system to laboratory tests of the beam similar to what are currently required for standard headlights. NHTSA anticipates that manufacturers would be able to certify to these photometry requirements in a typical photometric laboratory using typical test procedures, with the addition of a headlamp beam controller simulating the signal sent to headlamps from the camera/headlamp controller.

Third, we propose a limited set of minimum illumination requirements (as tested in a laboratory) to ensure that the ADB system provides sufficient visibility for the driver. The current headlamp requirements include, in addition to maximum light levels in certain directions, minimum levels of illumination to ensure that the driver has a minimum level of visibility. We propose that these existing laboratory photometry tests be applied to the ADB system to ensure that the ADB beam pattern, although dynamically changing, always provides at least a minimum amount of light. We propose requiring that the dimmed portion of the adaptive beam meet the current lower beam minima and that that in the undimmed portion of the adaptive beam the current upper beam minima be met. These minimum levels of illuminance are in a direction such that they would not glare other motorists. Again, NHTSA anticipates that manufacturers will be able to certify to these photometry requirement in a typical photometric laboratory.

Finally, we propose several other system requirements to ensure that an ADB system operates safely. Some of these requirements, such as manual override, are already part of the existing regulations for semiautomatic beam switching devices, and are being extended to ADB systems. Other requirements such as one that the system notify the driver of a fault or malfunction, would be specific to ADB systems.

a. Requirements

This NPRM proposes to subject ADB-equipped vehicles to a dynamic compliance test to ensure the ADB system does not glare oncoming or preceding vehicles. The performance requirements we propose specify the maximum level of illuminance an ADB system may cast on opposing or preceding vehicles. In addition to these glare limit requirements, we are proposing a set of minimum system requirements to ensure an ADB system performs safely.

i. Baseline Glare Limits

The foundation of this rulemaking is a set of glare limits specifying the amount of light that may be directed towards oncoming or preceding vehicles. The glare limits we propose are the same limits used in the ADB Test Report and presented earlier in this document in Table 1 (oncoming glare limits) and Table 2 (preceding glare limits), except instead of regulating glare out to 239.9 m, we propose to regulate glare out to 220 m. Earlier we explained how these limits were derived. These glare limits would be used to evaluate ADB headlamp illuminance as measured in a dynamic track test. (We explain the proposed test procedures later in this document.) The current photometric test points from which the proposed limits are derived are maxima; therefore, we propose applying the derived glare limits as maxima, so that any measured exceedance of an applicable glare limit would be used to determine compliance (except for momentary spikes above the limits lasting no longer than 0.1 sec. or over a distance range of no longer that 1 m). We are stating the glare limits to a precision of one decimal place, as recommended in the report that developed these glare limits.[70] For purposes of determining compliance with the glare limits, the Agency will, when conducting compliance testing, round measured illuminance values to the nearest 0.1 lux, in accordance with the rounding method of ASTM Practice E29 Using Significant Digits in Test Data to Determine Conformance with Specifications.

SAE J3069 uses glare limits drawing on and similar but not identical to the proposed glare limits. The proposed glare limits deviate from SAE J3069 in two main respects.

First, two of the glare limits differ slightly. At 60 m, SAE J3069 uses glare

[70] Feasibility Study, p. 80.

limits of 0.7 lux (oncoming) and 8.9 lux (preceding) compared to the proposed 0.6 lux and 4.0 lux. The proposed limits are based on the 0.643 lux and 4.041 lux limits derived in the Feasibility Study, rounded to two decimal places.

Second, SAE J3069 applies to a narrower range of distances (30 m–155 m) than the proposed glare limits (15 m–220 m). Our tentative decision to regulate glare down to 15 m differs from SAE J3069, which does not apply to distances less than 30 m. At 15 m, the angle between the oncoming or preceding driver's eyes and the headlamps is small enough to cause the observer to be unable to see objects in the roadway. The 15 m cutoff we propose is consistent with the Feasibility Study and ADB Test Report, which also use glare limits for inter-vehicle distances as small as 15 m.[71] We believe it is reasonable not to regulate glare for distances smaller than 15 m because as the distance between the ADB and the oncoming vehicle decreases, the angle between the two vehicles increases; the effects of glare fall off rapidly as the angle between the glare source and the center of the observer's field of view increase. For preceding vehicles in a passing situation, we tentatively believe this is justified because at this distance the location of the driver's eye likely corresponds to a portion of the beam pattern where less light is typically projected. In addition, at smaller distances it might be difficult to obtain accurate photometry readings.

The proposal to measure and regulate glare out to 220 m is farther than either SAE J3069 (which applies only out to 155 m) or the Feasibility Study (which derived glare limits only out to 120 m) and is slightly less than in the ADB Test Report.[72] We tentatively believe it is necessary to regulate glare further than 120 m or 155 m because the upper beams can glare other roadway users at and beyond those distances. The maximum intensity allowed for each upper beam headlamp is 75,000 cd;[73] this is equivalent to 150,000 cd for a headlighting system. At 120 m, 150,000 cd is equivalent to 10.4 lux; at 155 m, this translates to 6.2 lux. Both values are greater than the 0.3 lux glare limit the Feasibility Study derived for the furthest distance it considered (120 m).

The issue then is to what maximum distance glare should be regulated. We considered regulating glare out to the distance at which the upper beams would be extremely unlikely to glare other motorists, but this would involve measuring glare at very large distances, which would not be practicable for testing purposes.[74] The maximum distance we are proposing (220 m) seems to be roughly consistent with assumptions about allowable glare implicit in state laws governing upper beam use.[75] Requiring an ADB system not exceed 0.3 lux out to 220 m would therefore preclude an ADB system from using the full upper beam once an oncoming vehicle is less than 220 m away.[76]

We believe it is practicable for OEMs to design systems complying with glare limits out to 220 m. We are simply applying the lux limit, 0.3, which was derived for 120 m, out farther, to 220 m. A headlight system able to comply with an illuminance limit of 0.3 lux at 155 m (as required by SAE J3069) should be able to comply with the same 0.3 lux limit at 220 m (because the illuminance decreases as the distance from the light source increases), as long as the ADB system is able to detect oncoming vehicles at that distance. We believe it is reasonable to expect this sort of detection capability from ADB systems; for example, the ECE ADB regulations require ADB cameras to be capable of sensing vehicles out to 400 m.[77]

We have tentatively concluded that the proposed glare limits are appropriate for use in this rulemaking. The proposed glare limits provide objective, numeric criteria to evaluate ADB system performance with respect to glare. They are based on the existing glare limits, which have been part of FMVSS No. 108 since its inception in 1967 (although the current lower beam maxima are slightly higher than the maxima incorporated by reference in the initial FMVSS). SAE has adopted glare limits similar to the proposed limits in SAE J3069. We seek comment on the appropriateness and use of the proposed glare limits. In particular, we request comment on any potential safety difference between adopting the SAE glare limits and the proposed glare limits. In addition, we seek comment on the proposal to consider any exceedance of an applicable glare limit (other than momentary spikes) to be a noncompliance. This does not take into account glare dosage, exposure, or perceptibility. Some studies suggest at least some adverse effects of glare depend on temporal duration. For example, some studies have shown that the time it takes for a driver's visual performance to return to its original state after exposure to glare (referred to as glare recovery) is proportional to the total glare or glare dosage.[78] It may also be possible that light intensities exceeding the glare limits may not be perceptible to an oncoming or preceding driver if the exposure duration is sufficiently small. Should there be a durational element to the glare limits, and if so, what should the duration be? What is the safety-related basis for the duration (*e.g.,* evidence that light intensity at or above a baseline glare limit does not have adverse effects on an oncoming or preceding motorist if the glare lasts for no longer than that duration)? Would the ''any exceedance'' rule potentially mean that an ADB system utilizing pulse width modulated

[71] Feasibility Study, pp. 23–24.

[72] The SAE range of 155 m appears to roughly track state laws regulating upper beam use. Many states allow drivers to use upper beams up to about 152 m (500 ft.) from an oncoming vehicle; inside of 152 m, the driver must use the lower beams. The distance requirements are smaller for preceding vehicles. *See, e.g.,* Va. Code Ann. sec. 46.2–1034 (2017); Cal. Veh. Code sec. 24409 (2017); 7 Tex. Transp. Code Ann. sec. 547.333.

[73] Table XVIII.

[74] The Feasibility Study derived a glare limit of .3 lux at 120 m for oncoming vehicles. For simplicity, and since we do not have derived glare limits for distances greater than 120 m, we apply .3 lux as the glare limit for distances greater than 120 m. (From the standpoint of regulatory stringency this is conservative, because, as the Feasibility Study explains, the allowable illuminance actually decreases as distance increases.) The maximum permissible intensity for an upper beam system is 150,000 cd, and the distance at which this will not glare an oncoming motorist is, approximately, the distance at which this will result in illuminance of .3 lux, which is 700 m. This long of a distance—almost a half mile—is not practicable for testing purposes.

[75] Many states prohibit upper beam use unless oncoming vehicles are more than approximately 155 m away. These state upper beam laws are likely based on older upper beam headlamps that were not as intense as modern headlamps. *See, e.g.,* Cal. Veh. Code sec. 24409 (2017) (requirement that driver use lower beam within 500 ft (152 m) of an oncoming vehicle enacted prior to 1978). Prior to 1978, the maximum allowable upper beam intensity for a headlighting system was 75,000 cd. *See* 61 FR 54981. At 155 m, this is equivalent to 3.1 lux. Thus, under these state laws the illumination to which an oncoming driver would be exposed would not exceed (roughly) 3.1 lux. The current photometry requirements permit a maximum upper beam intensity (for a system) of 150,000 cd. This is equivalent to 3.1 lux at 220 m. Thus, the proposal to regulate glare out to 220 m is consistent with the distance specified by state headlamp beam use laws based on the lower-intensity pre-1978 upper beam, adjusted to account for the higher-intensity upper beam allowed since 1978. That is, the distance we propose exceeds the 155 m found in many state beam use laws because headlamps are now allowed to be brighter than they were previously allowed to be.

[76] Assuming the system's upper beam is designed to produce up the maximum allowable intensity. If the upper beam were designed to produce less than the maximum allowable intensity, then the system potentially could use the full upper beam within 220 m.

[77] ECE R48 6.1.9.3.1.2.

[78] Yukio Akashi, John Van Derlofske, Jennifer Watkinson & Charles Fay. 2005. Assessment of Headlamp Glare and Potential Countermeasures: Survey of Advanced Front Lighting System (AFS). DOT HS 809 973. Washington, DC: National Highway Traffic Safety Administration, pg. 71.

light sources could be noncompliant even though oncoming drivers would not experience glare? If so, how should this be accounted for?

ii. Existing Photometry Requirements That Would Also Apply to ADB Systems

The proposed baseline glare limits are essentially new lower beam photometric requirements with which an ADB system would have to comply when tested under the track-test procedures discussed later in this preamble. In addition to these track-tested glare limits, under this proposal an ADB system would also be subject to some of the existing laboratory-based upper and lower beam photometry requirements. When the ADB system is producing an upper beam (*i.e.* when there are no oncoming or preceding vehicles within 15 m to 220 m) we propose the beam be subject to all of the applicable Table XVIII upper beam requirements. In addition, we propose that in the undimmed portion of the adaptive beam the applicable Table XVIII upper beam maxima and minima be met. Similarly, we propose requiring that the lower beam maxima and minima be complied with within the dimmed portion of the adaptive beam.

This differs from SAE J3069 in some respects. SAE J3069 has somewhat similar provisions relating to lower and upper beam photometry, but those provisions reference the relevant SAE photometric standards; the proposal instead appropriately references the upper and lower beam photometric requirements in Tables XVIII and XIX of FMVSS No. 108. In addition, SAE J3069 only specifies that the lower beam maxima not be exceeded within the dimmed portion of the augmented lower beam, and the lower beam minima be complied with outside the dimmed portion of the augmented lower beam. We do not see any reason an ADB system's upper beam should not be subject to the same requirements as is a standard upper beam, or the dimmed and undimmed portions of the ADB adaptive lower beam should not be subjected to the applicable upper and lower beam maxima and minima. This limited set of laboratory-tested photometric requirements are an extension of the longstanding laboratory-based photometry requirements for standard headlights. The Agency requests comment on this preliminary determination. In particular, can commenters provide information on the safety impact of adopting the proposed standard versus the SAE approach?

If the Agency were to test an ADB system for compliance with these proposed requirements, the testing would be conducted as photometry testing is now tested, *i.e.,* in a laboratory using a goniometer. The Agency anticipates manufacturers will be able to certify to this photometry requirement in a typical photometric laboratory using typical test procedures, with the addition of a headlamp beam controller simulating the signal sent to headlamps from the camera/headlamp controller. For the Agency to conduct such testing, it would need to collect considerable information from the manufacturer as to how to control the headlamps to simulate the dynamic environment. NHTSA anticipates that it would consider the manufacturer's certification valid unless it is clearly erroneous or if the track testing indicates the basic headlamp photometry may be noncompliant with this requirement.

iii. Other System Requirements

We are also proposing several other requirements for ADB systems.

We propose applying some existing semiautomatic beam switching device requirements to ADB systems: Manual override (S9.4.1.2); fail safe operation (S9.4.1.3); and automatic dimming indicator (S9.4.1.4). These are requirements that apply today to semiautomatic beam switches.

We also propose adopting additional operation requirements that do not have analogs in the current semiautomatic beam switching device requirements; most of these are also part of SAE J3069. We propose to require the following:

- The ADB system must be capable of detecting system malfunctions (including but not limited to sensor obstruction).
- The ADB system must notify the driver of a fault or malfunction.
- If the ADB system detects a fault, it must disable the system until the fault is corrected.
- The system must produce a base lower beam at speeds below 25 mph. As the primary purpose of the ADB is to provide additional light down the road at high speed, the system is not needed at lower speeds. For speeds below 25 mph, it may be likely that the potential disbenefits from glare outweigh the potential benefits from the additional headlamp illumination.

Although we propose requiring a telltale informing the driver when the ADB system is activated (the automatic dimming indicator requirement in S9.4.1.4), we have tentatively decided not to require telltales indicating the type of beam (upper or lower) the ADB system is providing. We have tentatively decided not to follow the approach of ECE Regulation 48, which requires the upper beam telltale be used to indicate ADB activation, because we consider the ADB adaptive beam to be a lower beam if there are vehicles on the roadway to which the beam must adapt. We also do not require a telltale indicating an enabled ADB system is projecting an augmented lower beam. We believe providing the driver with a visual indication of the type of beam (upper or lower) an ADB system is providing is not necessary for safe driving and, if present, may result in the driver making unnecessary glances at the instrument panel instead of monitoring the roadway. We also propose revising the existing upper beam indicator requirement in S9.5 to state that the upper beam indicator need not activate when the ADB system is activated (and the ADB telltale is activated). This is consistent with SAE J3069. OEMs would be free to devise supplemental telltales/messages. In all of these, we follow the approach taken in SAE J3069.[79]

We seek comment on these choices. Our intent is to ensure that ADB systems operate robustly, while at the same time not unduly restricting manufacturer design flexibility. We also note that Table I–a of FMVSS No. 108 requires the ''wiring harness or connector assembly of each headlighting system must be designed so that only those light sources intended for meeting lower beam photometrics are energized when the beam selector switch is in the lower beam position, and that only those light sources intended for meeting upper beam photometrics are energized when the beam selector switch is in the upper beam position, except for certain systems listed in Table II.'' This might affect design choices for the headlight and/or ADB controls. It might mean that the headlight and ADB controls could not be designed so the ADB system is activated when the beam selector switch is in the lower beam position—the ADB system might, if no other vehicles are present, be projecting the upper beam, which could mean that upper beam light sources are activated when the beam selector switch is in the lower beam position. We seek comment on the effect of this requirement on ADB systems, and whether it needs to be amended, and if so, how.

We are not proposing to subject the switch controlling the ADB system to any physical test requirements (*e.g.,* vibration requirements, humidity requirement, etc.). We are not extending current device test requirements for

[79] S6.8 and discussion at p. 2.

semiautomatic beam switching devices[80] to ADB systems because those requirements date from the 1960s and do not appear to usefully extend to modern ADB technologies. We also are not proposing any new physical test requirements. We believe market forces will ensure an ADB system's switching device will operate robustly. We are, however, proposing requiring the ADB system to provide malfunction detection and notification and fail-safe operation. We seek comment on whether we should specify physical test or additional device test requirements.

In addition, other requirements in FMVSS No. 108 applying to headlamps will apply to ADB systems. ADB systems, as part of the required lighting system, would be required to comply with, for example, the Table I requirements, such as color (S6.1.2) and the steady-burning requirement (except for signaling purposes, and except for the automatic switching from upper beam to lower beam stimulated by the appearance of an oncoming or preceding vehicle), and any other provisions in FMVSS No. 108 that would apply to ADB systems by virtue of their being part of the required headlighting system (as we have tentatively concluded that they are).[81] We asked for comment in Section VI above for any other regulatory provisions that might affect ADB systems that we should consider amending.

iv. Retention of Existing Requirements for Semiautomatic Headlamp Beam Switching Devices Other Than ADB

The proposal retains the existing semiautomatic beam switching requirements for beam switching devices other than ADB (*i.e.,* beam switching devices that switch only between an upper beam and a single lower beam). These requirements have been in the standard for several decades, and while they might be updated, the focus of this rulemaking is on amending the current requirements to allow the adoption of ADB systems.

b. Test Procedures

i. Introduction

This section explains how we propose to test an ADB system to determine whether it complies with the photometric glare limits we are proposing as a performance requirement. We propose to test the ADB system in a dynamic road test, in a select number of driving scenarios and road configurations.[82] As noted earlier, the existing headlamp photometric requirements, including the requirements that regulate glare, are component-level requirements, and testing for compliance with them is conducted on the headlamp in a laboratory. We tentatively believe a dynamic road test is necessary to ensure, to a reasonable degree of confidence, that an ADB system meets minimum safety requirements for the prevention of glare. Because the ADB system relies on a combination of sensors/cameras, controller units, and headlamps that must all work together, the Agency tentatively concludes a dynamic compliance test is essential for evaluating ADB performance.

Below we discuss the proposed test procedures in detail. The proposed procedures involve equipping an FMVSS-certified vehicle with photometers (a ''stimulus vehicle'') to measure the amount of glare produced by the ADB-equipped vehicle being tested for compliance (''test vehicle''). With respect to the track on which we would test vehicles, we propose specifying relatively broad ranges of conditions, with a limited number of driving scenarios to maintain a practical and efficient test while also reflecting real-world conditions to which an ADB system would need to adapt to perform adequately. The test track may include straight and curved portions but no intersections. For curved sections, we propose allowable radii of curvature. The ADB systems we tested were unable to prevent glare to any measurable degree better on hilly roads than a typical lower beam headlamp. Accordingly, the longitudinal slope (grade) cannot exceed 2% to maintain useful alignment with headlamps. While we encourage continued development of the technology to reduce glare below the current lower beam on hilly roads, we are not proposing such a requirement today. We are proposing realistic vehicle speeds, appropriate for the radii of curvature we have specified.

ii. Test Vehicle and Stimulus Vehicle

In later sections of this preamble, we discuss proposed maneuvers of the stimulus and ADB test vehicles. Here, we discuss the stimulus vehicles we propose to use in testing.

1. Proposal

We propose to use as a stimulus vehicle any FMVSS-certified vehicle satisfying the following criteria: (1) Of any FMVSS vehicle classification excluding trailers, motor-driven cycles, and low-speed vehicles; (2) of any weight class; (3) of any make or model; (4) from any of the five model years prior to the model year of the test vehicle; and (5) subject to a vehicle height constraint. These criteria, and alternatives we are considering, are discussed in more detail below.

Vehicle Classification

We propose to use vehicles of any FMVSS classification other than trailers, motor-driven cycles, and low-speed vehicles: passenger cars, buses, trucks, multipurpose passenger vehicles, and motorcycles. An ADB system should be able to function so as to not glare a broad range of FMVSS-certified vehicles. We do not believe it would be difficult for an ADB system to identify and shade different vehicle types because the image recognition technology will likely focus on headlight and taillight patterns and locations. While the FMVSS do not regulate vehicle width, FMVSS No. 108 does regulate the range of permissible mounting heights for front and rear lamps, based on the type of vehicle; this should help aid detection.

Weight

We propose using vehicles of any gross vehicle weight rating (GVWR). SAE J3069 similarly uses fixtures based on light and heavy vehicle applications. Again, we see no reason why an acceptable ADB system should not be able to recognize and shade both large and small vehicles as these vehicles will be encountered in the real world.

Make and Model

We propose using any make or model of vehicle (that meets the other criteria). We alternatively considered specifying a list of eligible test vehicles by make and model spanning a range of manufacturers and vehicle types. The list would be included as an appendix in FMVSS No. 108. Vehicles included on the list would comprise a relatively large percentage of vehicles sold in the United States; for example, the list could be based on vehicle and sales data from Ward's Automotive Yearbook. Under this specification, the Agency could use any vehicle on the list from the preceding five model years. We have tentatively decided not to adopt this

[80] FMVSS No. 108 S14.9.3.11.

[81] Other examples include, but are not necessarily limited to, the following: S10 (headlighting system requirements); S12 (headlamp concealment device requirements); S13 (replaceable headlamp lens requirements); and S14.6 (headlamp physical test requirements and procedures).

[82] As with all the FMVSSs, the proposed test procedures are the procedures that NHTSA would use in performing compliance testing. Vehicle or equipment manufacturers would not be required to use these testing procedures to certify their vehicles. They may certify their vehicles using other means as long as they exercise due care in making that certification.

approach because we believe an ADB system should recognize and shade a wide variety of vehicles. However, we seek comment on this alternative approach. Are there certain makes or models an ADB system should not be expected and required to detect? If so, what is the basis for such a determination, and how does it satisfy the need for safety as well as practicability?

Model Year

We believe limiting ourselves to the preceding five model years strikes a reasonable balance between the need for safety and practicability.

Vehicle Height Constraint

While we propose potentially using a relatively broad range of vehicle types, weights, makes, and models, we propose to constrain the set of vehicles eligible as test vehicles by vehicle height. The height constraint is based on the proposed specification for where the photometric receptor head(s) to measure oncoming glare will be placed on the windshield of the stimulus vehicle (see Section VIII.b.ii.3.a below). They may be mounted anywhere within a specified range on the windshield (roughly corresponding to where the driver's eyes would be), subject to a height constraint: The photometer may be placed no higher or lower than a specified height range (measured with respect to the ground). The ranges are based on data and studies of driver eye heights for different types of vehicles. If it is not possible to mount the receptor head(s) within the specified range on a candidate stimulus vehicle, then that vehicle would not be eligible for use as a stimulus vehicle. This photometer receptor head placement constraint effectively acts as a constraint on vehicles that may be used as stimulus vehicles and excludes vehicles that ride unusually high or low. We are proposing this constraint because we recognize it may be difficult or impossible to design a headlighting system accommodating such outlier vehicles. The existing Table XIX lower beam photometry requirements are such that low-to-the-ground vehicles may be subject to glare even by a compliant lower beam. We would also constrain ourselves by not using unusually high vehicles to ease potential testing burdens on manufacturers.

Summary

We tentatively believe this broad range of stimulus vehicles is reasonable to adequately ensure that an ADB system functions robustly and avoids glaring other drivers; we are concerned about a test procedure effectively permitting an ADB system designed to accommodate only a narrow range of oncoming or preceding vehicles. The purpose of the stimulus vehicle is to elicit headlamp beam adaptation by an ADB system and test whether the ADB system recognizes oncoming and preceding vehicles and appropriately limits the amount of light cast on these vehicles to ensure that they are not glared. This requires an ADB system be able to appropriately detect and identify light coming from another vehicle and dynamically shade that vehicle. An ADB system must be able to recognize multiple possible configurations of headlights and taillights, on vehicles of different size and shape (within a reasonable range).

We tentatively believe it would be practicable for a manufacturer to design an ADB system to recognize and shade any vehicle satisfying the proposed selection criteria. Although we are proposing a relatively broad range of eligible stimulus vehicles, the lighting configurations an ADB system would have to recognize are not unbounded. Front and rear lighting designs are limited by the requirements of FMVSS No. 108 and realities of vehicle design. Mounting heights, number, color, and locations of vehicle lighting are constrained by requirements set out in Table I of FMVSS No. 108. For example, headlamps must be white and mounted at the same height symmetrically about the vertical centerline, as far apart as practicable, and mounted at a height of not less than 22 inches nor more than 54 inches. Additionally, while we are proposing a broad array of makes and models as test vehicles, there is a limited, and not exceptionally large, number of makes and models of vehicles offered for sale in the United States every year. For example, in Model Year 2017, approximately 420 makes/models of passenger cars, trucks, vans, and SUVs were offered for sale. The set of vehicles eligible to be used as test vehicles will be further limited by the height constraint we are proposing.

We seek comment on the proposed vehicle selection criteria. Do the criteria define a set of stimulus vehicles that is so large as to be impracticable or unnecessary? If so, in what specific ways would manufacturers find them impracticable, or why are they unnecessary (*i.e.,* how could the Agency be confident that glare prevention could be adequately ensured with a smaller set of possible stimulus vehicles)? Are the alternative criteria mentioned above preferable, and if so, why? Are there other vehicle selection criteria that would result in a smaller set of eligible stimulus vehicles but that would still be sufficient to adequately discriminate between a robust ADB system and a less robust ADB system?

2. Alternative: Test Fixtures

We also considered using test fixtures instead of vehicles for the purpose of eliciting an ADB response as part of a compliance test. SAE J3069 specifies stationary test fixtures (structures intended to simulate the front or rear of an actual vehicle) in place of actual vehicles. It specifies four test fixtures: An opposing car/truck fixture; an opposing motorcycle fixture; a preceding car/truck fixture; and a preceding motorcycle fixture. The fixtures are fitted with lamps simulating headlamps and taillamps. For headlamp representations, it specifies a lamp projecting 300 cd of white light in a specified manner and angle. For the taillamp representations, it specifies lamps emitting no more than 7 cd of red light in a specified manner and angle. The fixtures are fitted with photometers positioned near where a driver's eyes would be to measure the light from the ADB test vehicle.[83] The lamp and photometer locations are based on ''median location values provided by [the University of Michigan Transportation Research Institute].'' [84] SAE specifies test fixtures to reduce test variability and because it considers stationary fixtures as a ''worst case since some camera systems utilize opposing or preceding vehicles movement within a scene to identify them as vehicles instead of other road objects, such as reflectors on the side of the road.'' [85] There was also a ''concern that if the actual lower beam headlamps were used on the opposing vehicle test fixture the large gradients present in typical lower beam patterns would cause unnecessary test variability.'' [86]

We are not proposing to use test fixtures because we have tentatively concluded they may not be sufficient to ensure that an ADB system operates satisfactorily in actual use. Using stationary test fixtures as opposed to dynamic actual production vehicles has the advantage of relative simplicity and ease of testing. However, the drawback is that it is not realistic. Test fixtures may encourage an ADB system designed to ensure identification of test fixtures rather than actual vehicles. This may not adequately ensure that the system

[83] SAE J3069 5.5.2 and Figures 1 and 2 (opposing vehicle fixture); 5.5.3 and Figures 3 and 4 (preceding vehicle fixture).

[84] SAE J3069, p. 3.

[85] SAE J3069, p. 3.

[86] SAE J3069, p. 4.

performs satisfactorily when faced with a wide range of different vehicles equipped with lighting differing from the test fixtures. In addition, to the extent that test fixtures differ in appearance from actual vehicles, an ADB system would have to be programmed to recognize them, which in practice might make it difficult to tune out non-vehicle objects confronting the system in actual use. Regarding gradients in typical headlamp beam patterns, we tentatively believe this will only affect the repeatability of the test if the reaction by the ADB system changes based on this difference. If this is the case, the ADB system will have this issue in actual use, and this should not be considered variability attributable to the test, but a failing of the ADB system.

We are also not necessarily confident that stationary fixtures with lamps represented as specified in SAE J3069 represent a worst-case scenario. Some ADB systems may have more difficulty detecting moving dim lights or moving lights spaced a certain width apart. The Agency welcomes any data relating to this. In addition, we seek comment on the extent to which narrowly defined lamps can be used to establish performance requirements that reasonably ensure an ADB system will recognize and adapt appropriately to the wide range of lighting configurations permitted under FMVSS No. 108. For instance, the minimum intensity allowed for a taillamp is 2.0 cd at H–V and as low as 0.3 cd at an angle of 20 degrees. These values are considerably lower than the 7.0 cd lamp specified in SAE J3069. Using stationary test fixtures would likely reduce test variability. However, we tentatively believe that the variability attributable to the proposed procedure would be within acceptable limits considering the previously described necessity of vehicle-level testing as demonstrated by NHTSA's research. As discussed below in Section VIII.c, the variability the Agency observed in the test results between a stationary lower beam and a moving test vehicle lower beam (most applicable in the straight approach maneuver) seemed to primarily be caused by the moving test vehicle not the moving stimulus vehicle.

3. Photometer Placement

The photometer measures the amount of light cast by the ADB test vehicle falling on the stimulus vehicle. Our general approach is to place the photometer [87] near where the driver's eyes would be (to measure glare to oncoming vehicles) or near where light would strike an inside or outside rearview mirror (to measure glare to preceding vehicles).

a. Oncoming Vehicles

Here the approach is to measure light cast near where the driver's eyes would be. Below we explain our proposal, as well as several alternatives.

Proposal

We propose to specify the position of photometers with respect to the X, Y, and Z coordinates [88] (*i.e.,* the longitudinal, lateral, and vertical placement of the photometers). With respect to the longitudinal position, we propose to mount the photometer(s) outside the vehicle, forward of the windshield and rearward of the headlamps. Measuring headlight illuminance in front of the windshield is consistent with the proposed glare limits; they are derived from the current glare test points, which apply to light coming from a headlamp and do not take into account effects related to the windshield glass. If the photometer were placed behind the windshield, test results might depend on properties of the windshield, which is undesirable because the purpose of the test is to measure ADB system performance.

With respect to the lateral and vertical positions of the photometer(s), we are proposing specifying a range of permissible positions.

With respect to the lateral position of the photometer, we propose locating the photometer anywhere from the longitudinal centerline of the stimulus vehicle over to and including the driver's side A-pillar.

With respect to the vertical position of the photometer, we propose placing it anywhere from the bottom of the windshield to the top of the windshield, subject to an upper bound and a lower bound. These upper and lower bounds, which differ based on vehicle classification and weight, are set out in the proposed regulatory text and are reproduced in Table 4. If it is not possible to place a photometer on a candidate measurement stimulus vehicle so the photometer was both between the top and bottom of the windshield and within the applicable range in Table 4, then that vehicle would not be eligible for use as a stimulus vehicle.

TABLE 4

Vehicle classification/weight	Mean	Height range (m)	
		Lower bound	Upper bound
Passenger Cars	1.11	1.07	1.15
Trucks, buses, MPVs (light)	1.42	1.26	1.58
Trucks, buses, MPVs (heavy)	2.33	1.99	2.67
Motorcycles	1.43	1.30	1.66

"Light" means vehicles with a GVWR of 10,000 lb. or less. "Heavy" means vehicles with a GVWR of more than 10,000 lb. Heights are measured from the ground.

[87] Or, perhaps more accurately, photometric receptor heads, if, for example, the photometer is configured with multiple receptor heads, as was the case in NHTSA's testing. For ease of exposition, the discussion in this document simply refers to the ''photometer'' to refer to the test equipment used to detect the light emitted from the ADB system. In addition, we may use multiple photometers or receptor heads simultaneously.

[88] *See* SAE J1100 FEB2001, Motor Vehicle Dimensions.

The ranges for passenger cars and light trucks, buses, and MPVs are from a 1996 University of Michigan Transportation Research Institute (UMTRI) study estimating mean driver's eye heights based on a sample of high-sales volume vehicles and drivers.[89] The range for heavy trucks, buses, and MPVs is from a 1990 study based on a sample of heavy goods vehicles in a 1989 roadside survey in the United Kingdom.[90] The ranges we are proposing are the two standard deviation ranges.[91] These are consistent with the photometer heights specified in SAE J3069 for the opposing vehicle fixtures. SAE J3069 specifies heights of 1.1 m and 2.2 m for the photometers used to measure oncoming glare to drivers of passenger cars and trucks, respectively. While SAE J3069 specifies a point, not a range, the points it specifies for the passenger car and truck driver eye heights are based on the same means we used to construct the height ranges for passenger cars and heavy trucks/buses. (SAE J3069 does not distinguish between heavy and light trucks, and appears to use a mean for truck driver eye height that is a slight downward adjustment of the heavy truck mean reported in the Cobb study).

The height range for motorcycles was determined as follows. The opposing motorcycle test fixture specified in SAE J3069 locates the photometer coincident with the rider's eye point, 1.3 m above the ground. This appears to have been based on the 5th percentile motorcycle rider eye height of 1.35 m reported in a study that examined motorcycle rider eye heights in Malaysia.[92] We propose this as the lower bound for the vertical height of the photometer. For the upper bound, we propose using 1.66 m, which is based on a two-standard deviation range.[93]

We tentatively believe that the proposed specification for the placement of the photometers meets the need for safety and is practicable. It defines a bounded area approximating the location of the driver's (or rider's) eyes. Unlike a specification for an eye ellipse,[94] which defines a smaller area more precisely targeting where the driver's eyes would likely be located, the larger area we specify provides a margin for safety and is easier to locate. Given that ADB is currently designed to shade an entire approaching or preceding vehicle, we believe focusing on a small area such as that of an eye ellipse is not necessary. Instead, ''the expectation is that ADB will reduce any glare producing light toward and on the full width of opposing and preceding vehicles, thereby providing benefit to all occupants in the vehicle.'' [95] However, we propose to subject the vertical placement of the photometer to a lower bound because we recognize it may be difficult to design an ADB system to prevent glaring extremely low-riding vehicles with correspondingly low driver eye heights; we recognize that because of the low height, even an FMVSS No. 108-compliant lower beam might glare such a low-riding driver. We are proposing an upper bound on photometer placement to limit the conceivable test locations; we also do not anticipate ADB systems would produce high levels of illumination at heights above the ranges we are proposing. At the same time, we believe a two-standard deviation range captures enough variation to require the design of robust ADB systems. We also believe specifying these bounds will ensure tests are not unduly stringent. If a candidate stimulus vehicle is such that there is no position between the top and bottom of the windshield that would be within these bounds, then that vehicle would not be eligible for use as a stimulus vehicle.

We seek comment on the proposed specifications for photometer placement. In particular, we seek comment on whether the proposed height range is necessary, and if so, whether the proposed specification is sound.

Alternatives to Proposal

We also considered alternative procedures for determining the lateral and/or vertical position of the photometer(s) to measure oncoming glare. We discuss these below. Note that these are not alternatives for determining the longitudinal position of the photometer. In addition, for all of these alternatives, the vertical position of the photometer(s) would be subject to the upper and lower bounds proposed above.

Alternative 1

We considered specifying the lateral and vertical position of the photometer by using a test procedure based on that currently used to locate the approximate eye position of a 50th percentile male in compliance testing for the FMVSS No. 111 rear visibility field of view and image size requirements. FMVSS No. 111 requires, among other things, a visual display of an image of an area behind the vehicle and specifies certain requirements for the image. The field of view and image size test procedures locate where eyes of a typical driver would be. More specifically, they locate the midpoint of the eyes of a 50th percentile male. The test procedure specifies the eye midpoint by using the H-point as a point of reference. The H-point is used in several other NHTSA standards [96] and represents a specific landmark near the hip of a 50th percentile adult male positioned in a vehicle's driver seat. It has been used by NHTSA as well as other organizations in

[89] Michael Sivak, *et al.* 1996. The Location of Headlamps and Driver Eye Positions in Vehicles Sold in the U.S.A. UMTRI–96–36. University of Michigan, Transportation Research Institute, p. 9.

[90] J. Cobb. 1990. Roadside Survey of Vehicle Lighting 1989. Research Report 290, Department of Transport, Transport and Road Research Laboratory (cited and discussed in Michael Sivak, *et al.* 1991. The Influence of Truck Driver Eye Position on the Effectiveness of Retroreflective Traffic Signs. UMTRI–91–35. University of Michigan, Transportation Research Institute, p. 8.).

[91] The American Association of State Highway and Transportation Officials (AASHTO) uses similar values for driver's eye height for measuring sight distances. A Policy on Geometric Design of Highways and Streets. 2011. AASHTO (hereinafter ''AASHTO Green Book''). It recommends 1.08 m for passenger vehicles and 2.33 m for large trucks (and notes a range of 1.8 to 2.4 m for large trucks). *Id.* pp. 3–14. The AASHTO values are based on a 1997 study by the Transportation Research Board, which estimated the values for passenger cars, multipurpose vehicles, and heavy trucks. Daniel B. Fambro, *et al.* 1997. NCHRP Report 400: Determination of Stopping Sight Distances. Transportation Research Board, National Research Council, National Cooperative Highway Research Program. The driver eye height values used by AASHTO for passenger cars and large trucks appear to be the 10th percentile values reported in the NCHRP report for passenger cars and heavy trucks, respectively. NCHRP Report 400, pp. 44–45 (Tables 31 and 33). The mean values in the NCHRP report are 1.15 m (passenger cars), 2.45 m (large trucks), and 1.48 m (MPVs). Since these estimates are based on a dynamic road survey conducted (largely) in 1993, they are based on older vehicles than the MY 1996 vehicles surveyed by UMTRI. The heights found by UMTRI are lower than in the NCHRP report; this is consistent with the observation that driver eye heights have tended to decrease over time. *See* AASHTO Green Book, p. 3–14.

[92] Seyed Davoodi *et al.* 2011. Motorcycle Characteristics for Sight Distance Investigation on Exclusive Motorcycle Lanes. Journal of Transportation Engineering, 137(7): 492–495.

[93] Specifically, this is based on the mean of 1.43 m reported in Davoodi *et al* and the standard deviation reported in another paper (.117 m). *See* Terry Smith, John Zellner & Nicholas Rogers. 2006. A Three Dimensional Analysis of Riding Posture on Three Different Styles of Motorcycle. International Motorcycle Safety Conference, March 2006. This paper compares the riding posture (using anatomical landmarks) of a sample of human test subjects to the posture of the Motorcycle Anthropometric Test Dummy (MATD). The paper reports, among other things, the standard deviation of the vertical location of the test subjects' left infraorbitale (a point just below the eye) relative to the infraorbitale of the MATD of .117 m. In other words, the study reports the standard deviation of the vertical location of the infraorbitale relative to a fixed point.

[94] SAE J941, Motor Vehicle Drivers' Eye Locations.

[95] SAE J3069, p. 3.

[96] *See, e.g.,* FMVSS No. 208, S10.1; FMVSS No. 210, S4.3.2.

the context of visibility measurement. SAE J826 JUL95 defines and specifies a procedure, including a manikin (''H-point manikin''), for determining the exact location of the H-point in a vehicle; it specifies the H-point in relation to the hip location of a driver in the driver seating position. The rear visibility test procedure uses the J826 manikin and procedure to locate the H point. It then uses anthropometric data from a NHTSA-sponsored study of the dimensions of 50th percentile male drivers [97] to locate the midpoint between the driver's eyes.[98] In practice, a testing laboratory typically uses an H-point manikin fitted with a camera (which is needed for the field of view and image size tests) positioned at the driver's eye midpoint.

We considered a simplified version of this procedure to determine the approximate vertical and lateral position (the Z and Y coordinates) of the expected eye position of a 50th percentile male driver. The driver's seat positioning test procedure in S14.1.2.5 and part of the test reference point procedure (S14.1.5(a)) in FMVSS No. 111 locates the center of the forward-looking eye midpoint with respect to the H-point. We considered using the Z and Y coordinates of the forward-looking eye midpoint to specify the position of the photometer in front of the windshield. This procedure would locate the photometer approximately where the eyes of an average male driver would be. Mounting the photometer at different but nearby locations (*e.g.,* a location corresponding to the forward-looking eye midpoint of a 5th percentile female) would add additional testing burden while likely not affecting the outcome of the test. This alternative test procedure would appear to be practicable. The H-point machine is a fairly standard piece of laboratory test equipment used in other FMVSS and SAE standards. Compared to the proposed test procedure, there would likely be some additional work involved in positioning the manikin, but this may not add an exceptional amount of cost or time to the test, particularly if the laboratory performing the test already had an H-point machine. This alternative might be preferable to the proposed option if it were determined ranges utilized by the proposed option did not have a sound basis.

Alternative 2

As another alternative for specifying the lateral and vertical position of the photometer(s), we considered obtaining from the manufacturer of the stimulus vehicle the coordinates of the midpoint of the 50th percentile male's drivers' eyes. We believe most vehicle manufacturers would have this information and could supply it to NHTSA. The purpose of this would be to save the Agency time in doing the test, perhaps if an H-point machine were not readily available. While there would be some difference between the photometer location compared to Alternative 1, we believe such relatively small changes would not meaningfully affect test outcomes. If a manufacturer desired to conduct testing following NHTSA's test procedures, it could use a stimulus vehicle it manufactures, or, if it desired to use a stimulus vehicle manufactured by another manufacturer, it could potentially obtain information from the manufacturer of that vehicle.

Alternative 3

We also considered, as an alternative for locating the photometer with respect to the Z and Y axes, using SAE J941 JAN2008, Motor Vehicle Divers' Eye Locations. This document describes a procedure for locating a mid-centroid driver's eye ellipse. We tentatively concluded that, for purposes of compliance testing, J491 would not provide an easy enough to follow procedure; we believed that it would be easier to use the H-point machine instead.

Alternative 4

As a final alternative for locating the photometer laterally, we considered specifying the test procedure such that NHTSA could place the photometer anywhere from the driver's side A pillar up to and including the passenger side A-pillar. This would give an extra margin of safety with respect to glare directed at the driver and would also ensure passengers are not glared. Or, photometers could be positioned at the geometric center of the windshield, which would limit the range of testing.

We seek comment on the desirability of each of these options, whether we should adopt one, or multiple options, and the relative merits of each.

b. Preceding Vehicles

For preceding vehicles, the safety concern is the ADB system could glare the driver by shining excessive light onto the inside or outside rearview mirrors. To measure glare on the outside rearview mirrors, we propose placing the photometer anywhere against or directly adjacent to the mirror's reflective surface. To measure glare on the inside rearview mirror, we propose placing the photometer on the outside of the rear window, laterally and vertically aligned with the interior mirror. We are not proposing more detailed procedures for placing the photometers because the locations of the mirrors themselves largely determine the placement of the photometer, and we do not expect test results to be affected by small variations in the placement of the photometer. We seek comments on this aspect of the proposal.

4. Photometers and Photometric Measurements

We propose that in compliance testing, NHTSA would use a sampling rate of at least 200 Hz when recording test data. We would sample over all the distance ranges for which we are proposing a corresponding glare limit. Illuminance meter and data acquisition equipment would be configured and any necessary steps would be taken to isolate measurement of the light emitted by the ADB test vehicle. We seek comment on the appropriateness of this minimum sampling rate, as well as whether a maximum sampling rate should be specified and, if so, what it should be. We also seek comment on whether there are other aspects of the photometric equipment or measurements that should be specified.

For each test run, illuminance data would be continuously recorded as the ADB vehicle approached the stimulus vehicle through the range defined for the specific test scenario being run. This inter-vehicle distance is measured from the intersection of a horizontal plane through the headlamp light sources, a vertical plane through the headlamp light sources and a vertical plane through the vehicle's centerline to the forward most point of the relevant photometric receptor head mounted on the stimulus vehicle.

In determining the set of recorded illuminance values we would look at within each distance interval to determine compliance, we propose to use the recorded values starting with (and including) the first recorded value up to and including the last recorded illuminance value in each distance range. Any recorded illuminance values in a distance interval greater than the applicable glare limit for that distance would be considered a test failure, provided the value is not a small spike. Values above the applicable glare limit lasting no longer than 0.1 sec. or over a distance range of no longer than 1 m would not be considered test failures. This allows for electric noise in the

[97] L.W. Schneider, D.H. Robbins, M.A. Pfliig, & R.G. Snyder. 1985. Anthropometry of Motor Vehicle Occupants; Volume 1-Procedures, Summary Findings and Appendices. National Highway Traffic Safety Administration, DOT 806 715.

[98] *See generally* 75 FR 76232.

photometers as well as momentary pitch changes of the test and stimulus vehicles caused by bumps in the test track.

The proposal differs from SAE J3069. For purposes of determining whether an ADB system complies with the glare limits, SAE J3069 considers only illuminance values recorded at distances of 30, 60, 120, and 155 meters, instead of sampling multiple illuminance values within these distance ranges.[99] Because an oncoming or preceding driver could be glared anywhere from 15 m to 220 m, and because the real test of an ADB system's performance is how it operates over the full distance range within which it may be glaring other drivers, we tentatively conclude it is necessary to sample illuminance values throughout this full range, and not simply evaluate ADB system performance at the four distance points at which the derived glare limit changes. Because we are sampling illuminance within these ranges, there is no need to use interpolation. The Agency would look only at these recorded values and not interpolate any values in evaluating compliance. We seek comment on these aspects of the proposal, in particular on whether there are any safety impacts in choosing the proposed test over the SAE approach.

iii. Considerations in Determining Compliance With the Derived Glare Limit Values

The lower beam photometric test points in Table XIX of FMVSS No. 108, from which the proposed glare limits are derived, apply to direct illumination from a headlamp. They do not include ambient light or reflected light from the road surface or signs. Ambient light refers to light emitted from a source other than the ADB system. This includes moonlight, light pollution from nearby buildings, or light coming from the stimulus vehicle. Reflected light refers to light from the ADB vehicle's headlights reflected off the road or other surface into the photometer(s) on the stimulus vehicle.

We propose to account for light from these sources in a couple of ways. To minimize ambient light, we propose that testing occur when the ambient illumination recorded by the photometers is at or below 0.2 lux.[100] We are also proposing the test only be conducted on dry pavement as well as pavement that is not bright white to avoid intense roadway reflections. Nevertheless, some degree of ambient light is unavoidable. Accordingly, in testing compliance the Agency will zero the photometers with the stimulus vehicle's headlighting system on and the stimulus vehicle in the orientation it will be during the test (for example, facing east). If the test involves a curve such that the orientation of the stimulus vehicle changes during the test, the photometers will be zeroed in the direction of the maximum ambient light.

There are more finely grained ways to measure ambient illumination. For driving scenarios in which the stimulus vehicle is moving, we could, for example, dynamically measure ambient illuminance by driving the stimulus vehicle over the test course and continuously recording ambient illuminance over this run. We have tentatively decided this would be unnecessary because we are not proposing to use any roadway illumination. We do not anticipate ambient illumination will vary significantly at different points on a test course section used for a particular driving scenario. We have tentatively decided there is no need to further adjust the measured illuminance values to account for reflected light from the ADB headlights.

We note that FMVSS No. 108 is unusual among the FMVSSs because it requires that lighting equipment be ''designed to conform'' to relevant requirements, as opposed simply to comply with relevant requirements. As we have explained in the past, when NHTSA initially proposed in 1966 that lamps ''comply'' with FMVSS No. 108, industry represented that it could not manufacture every lamp to meet every single test point without a substantial cost penalty unjustified by safety. NHTSA accepted this argument. In adopting the standard, the Agency specified that lamps be designed to comply or designed to conform with the applicable photometric specifications. On a number of occasions since, NHTSA has stated that it will not consider a lamp to be noncompliant if its failure to meet a test point is random and occasional. Thus, historically, there has never been an absolute requirement that every motor vehicle lighting device meet every single photometric test point to comply with Standard No. 108.[101] Lighting equipment design, technology, and manufacturing have evolved and advanced since the late 1960's when the Agency initially adopted the design to conform language, and it may be arguable whether the Agency would come to the same conclusion were it to revisit this issue. Such matters are beyond the scope of this rulemaking. We simply note that we are proposing to extend the design to conform language of the current FMVSS No. 108 to the proposed requirements.

There are other adjustments to the measured illuminance values we could potentially make, but we have tentatively decided not to propose. NHTSA requests comment on the following:

- Should pitch correction be addressed directly, or are the momentary spike provisions enough to meet the goals of this rulemaking?
- SAE J3069 allows a 2.5 sec reaction time (*i.e.,* a glare limit may not be exceeded for more than 2.5 sec), motivated by the ''sudden appearance of an opposing or preceding vehicle due to a cresting a hill, a vehicle entering a roadway, etc.'' Should the Agency consider such a reaction time requirement in the regulation?
- Should the Agency specify specific photometry equipment and/or filtering based on the test vehicle's light source technology? Should the Agency specify different equipment to test HID, halogen, LED, or pulse width modulated headlamps?

iv. Additional Test Parameters

1. Test Scenarios

We are proposing a variety of different scenarios the Agency would be able to run to test for compliance. Scenarios would be specified in the regulatory text. For each scenario, we specify speeds of the ADB and stimulus test vehicles, the radius of curvature of the track, the superelevation, the orientation of the ADB and stimulus test vehicles, and the particular vehicle maneuver tested. Values proposed for speed, radius of curvature, and superelevation are consistent with a standard formula used in road design specifying the relationship between these parameters. The formula, referred to as the simplified curve formula, is

$$0.01e + f = \frac{V}{15R}^{2},$$

where f is the coefficient of friction, V is the vehicle speed, R is the radius of curvature, and e is superelevation.[102]

The proposal specifies vehicle speeds of up to 70 mph, depending on whether the test track is straight or curved (and how tight the curve is). We propose to

[99] If there is no illuminance value recorded at a specified distance, SAE J3069 specifies an interpolation procedure to generate an illuminance value at that distance.

[100] *See* SAE J3069 at 5.5.2.1, 5.5.3.1 (''No other vehicle lighting devices shall be activated or any retro-reflective material present and care should be taken to avoid other sources of light, reflected or otherwise.'').

[101] *See* 62 FR 63416 (Nov. 28, 1997).

[102] AASHTO Green Book, pp. 3–19 to 3–20.

use speeds up to 70 mph when testing on a straight track. We believe an upper limit of 70 mph is reasonable because freeways and other arterials frequently have speed limits this high. We believe that for an ADB system to operate at a sufficient level of safety it should be able to operate at these speeds, both because these speeds are typical of real-world driving, as well as because safety concerns regarding glare are magnified at higher speeds.

We propose using a straight track or a track with a radius of curvature from 320–380 ft. (for vehicle speeds of 25–35 mph); 730–790 ft. (for vehicle speeds of 40–45 mph); and 1100–1300 ft. (for speeds of 50–55 mph). The first range of radius of curvature corresponds to (approximately) the smallest radius of curvature appropriate for a vehicle traveling 25–35 mph; these speeds roughly correspond to the minimum speed for which we propose to allow ADB activation. The second range of radius of curvature roughly corresponds to the higher ADB minimum activation speeds of some of the ADB-equipped vehicles the Agency tested. Finally, to evaluate ADB performance at higher speeds, we are proposing an 1100–1300 ft. radius taken at 50–55 mph. We tentatively believe it is important to include actual curves because curves may present engineering challenges to ADB systems. For example, in oncoming situations, a curve presents an engineering challenge in that the opposing vehicle appears from the edge of the field of view at a close distance; in a tight curve, an oncoming vehicle will enter the camera field of view at a closer distance than in a larger-radius curve. Performing adequately on large-radius curves at relatively high speeds presents a slightly different engineering challenge than performance on tight curves at lower speeds.

We also propose superelevation (*i.e.,* the degree of banking of the track) of 0 to 2%. We attempt to minimize the degree of banking because photometry design as well as the existing and derived glare limits are based on flat surfaces.

We are proposing three basic maneuvers for testing compliance. These are oncoming (where the ADB and stimulus vehicles approach each other traveling in opposite directions); same direction/same lane (where the stimulus vehicle precedes the ADB vehicle in the same lane); and same direction/passing (where the stimulus vehicle begins behind the ADB vehicle, in the adjacent lane, and then passes the ADB vehicle from either the left or the right). During each of these maneuvers, each vehicle would be driven within the lane and would not change lanes. For each of these types of maneuvers, we specify the stimulus vehicle speed, ADB vehicle speed, radius of curvature (if testing on a curve), and superelevation with which the Agency may test.

The proposal differs significantly from SAE J3069 in several respects. First, as discussed above in Section VIII.b.ii, we are proposing to test with actual vehicles and not simply test fixtures. Second, this proposal effectively tests at higher speeds than SAE J3069. SAE J3069 specifies a minimum speed (above the ADB activation threshold speed) but does not specify maximum speed. Because some of the proposed testing scenarios employ a moving stimulus vehicle as well as a moving ADB vehicle (at speeds of up to 70 mph for both), the proposal would require a faster reaction time from ADB systems (and, as discussed earlier in Section VIII.b.iii, we tentatively decided not to include a reaction time allowance). Third, the proposed test scenarios include curves. SAE J3069 specifies a straight track and accounts for curves by specifying test fixtures up to two lanes to either side of the ADB test vehicle, so that ''in a straight-line encounter, an ADB must continuously track the angular location of an opposing vehicle as that angular position becomes progressively further from the center of the camera's field of view with decreasing distance to the opposing vehicle.'' We tentatively believe it is important to test on curves because the safety effect of glare could be magnified when a vehicle is travelling at speed on a curve. In addition, the Agency's testing revealed that existing ADB systems may not always appropriately shade oncoming vehicles in curves; we believe it is important to include this scenario to ensure that ADB systems operate safely. We seek comments on these differences, including the safety impact of adopting the proposed test versus the SAE standard.

The Agency has tentatively concluded that these proposed test scenarios are objective and strike a reasonable balance between safety and practicability. The proposal includes realistic vehicle speeds, interactions, and road geometries. We believe it is not unreasonable to expect an ADB system to avoid glaring other motorists in these scenarios. We considered, but are not proposing, a broader set of scenarios and/or test parameter values (*e.g.,* additional radii of curvature, testing with multiple stimulus vehicles). This would have allowed the Agency to test with a greater degree of realism. However, a broader range of test scenarios may have led to less confidence in the repeatability of test results. In any case, we tentatively believe that the proposed set of scenarios is sufficient to provide a minimum level of safety; they include a broad range of actual vehicles on a test track traveling at (up to) highway speeds, on curved and straight road segments.

At the same time, we tentatively conclude that the scenarios we are proposing are practicable, although some scenarios might be challenging for some ADB systems. The Agency's testing indicated that the ADB systems we tested generally performed well on straight roads, for oncoming and preceding glare.[103] However, we did see some exceedances for a stationary stimulus vehicle in this scenario, suggesting a stationary oncoming vehicle may be more difficult for ADB systems we tested to handle.[104] ADB systems also generally performed well in shading preceding vehicles on curves. We observed that ADB systems we tested had difficulties staying within the glare limits on curves for oncoming vehicles.[105] It may be that on a curve the stimulus vehicle coincides with larger horizontal angles of the beam pattern where the intensity of light may be higher. Accordingly, it may be possible to design headlamps so the intensity of light at these wider angles is brought down to the proposed glare limits.

Additionally, it might also be the case that ADB systems experiencing test failures are not able to view, classify, and adapt to an oncoming vehicle through a curve in a realistic high-speed interaction. The Agency's research included testing on various curves, but of particular applicability to this proposal are tests conducted on a curve with a radius of 764 ft. at 62 mph. As shown in the research report graphs,[106] the ADB systems we tested were unable to react fast enough to avoid providing glare well above the same vehicles' lower beam. As part of this proposal, the Agency considered the real-world significance of this situation and recognized 62 mph is unusually fast for this radius of curvature. Accordingly, the Agency is proposing a lower speed (40–45 mph), which more adequately reflects the typical speed most drivers would approach this type of curve.

We found that some vehicles performed well in all passing maneuver scenarios, while other vehicles did not perform as well in certain passing

[103] ADB Test Report, p. 172.

[104] *Id.* at p. 102.

[105] *Id.* at p. 173.

[106] *Id.* at p. 192 (Fig. 84).

scenarios (for example, the Audi produced high levels of glare in straight and right curve passing maneuvers).[107] We found that the ADB systems generally performed well with respect to oncoming motorcycles, but produced excessive glare in a scenario involving a preceding motorcycle.[108]

There are some common scenarios we considered but are not proposing to test because we recognize that current ADB systems could not reasonably be expected to perform well, or they might be difficult to specify to ensure repeatable results. For example, the proposal does not include testing ADB performance when approaching a vehicle at an intersection oriented perpendicular to the ADB vehicle's direction of travel. [109] We have tentatively decided not to include this scenario because NHTSA's testing indicated that existing ADB systems would have a difficult time complying with this, and we believe the magnitude and effect of glare in this situation would be relatively minimal because the vehicle illuminated by the ADB system would be stopped or preparing for a stop. Examples of other scenarios not proposed are testing with multiple stimulus vehicles; performing more complicated vehicle maneuvers; and performing on dips or hills (this is discussed below in Section VIII.b.iv.5).

We seek comment on all aspects of the proposed test scenarios. Is 70 mph an appropriate maximum speed? Will it be practicable for manufacturers to run compliance tests based on these proposed test procedures, if they so choose to do this as a basis for their certification?

2. Lane Width

We also propose that any test track or road we use have a lane width from 10 feet to 12 feet. The Federal Highway Administration classifies roads by functional types: Arterials, collectors, and local roads.[110] Design speeds on arterials and collectors range from about 20 mph on up; [111] because these roads generally provide enhanced mobility, it is reasonable to believe speeds are generally higher than this. Design speeds for local roads are generally lower, ranging from about 20 to 30 mph.[112] ADB systems are typically designed to activate at speeds above typical city driving speeds; activation speeds of vehicles tested by NHTSA ranged from 19 to 43 mph. Thus, ADB systems could conceivably be used on all types of roads, although ADB would be less likely to be used on local roads (at least in urban settings).

While 12-foot lanes are standard on arterials such as interstates and expressways, a sizeable proportion of collectors and local roads (as well as other types of arterials) have narrower lanes. Arterials and collectors together make up approximately one-third of all roadways.[113] About 55% of arterials and collectors have 12-ft. lanes.[114] However, about 33% have 10 or 11 ft. lanes.[115] Local roads account for approximately two-thirds of all roadways.[116] Local road widths generally range from 8 to 10 ft.[117] NHTSA's testing was conducted on several different track configurations with lane widths of 9, 10.5, and 12 feet.

We tentatively believe using lanes with widths from 10 feet to 12 feet would be adequate to cover a sufficient range of road widths the ADB would encounter in the real world. This would allow lanes narrower than specified in SAE J3069, which tests on a 12 foot lane, but is consistent with the Insurance Institute for Highway Safety headlight testing protocol, which uses a lane of 10.8 ft.[118] We believe that using the proposed range better reflects the range of lane widths on roads where ADB would likely be used. The less the lateral separation between the ADB-equipped vehicle and either oncoming or preceding vehicles, the greater the glare risk (although differences in lateral separation of only a couple of feet may not be expected to have a material effect on the amount of glare). At the same time, we do not believe it is necessary to use lanes narrower than 10 feet because at the speeds at which ADB is operational, lane widths would not, typically, appear to be under 10 feet. Narrower lanes might also affect the safety of running the test.

3. Number of Lanes, Median, and Traffic Barriers

We propose to test using two adjacent lanes. The effects of glare decrease as the angle between the glare source and the observer increases. Accordingly, the glare risk is most acute on 2-lane roads.[119] A properly-functioning ADB system should be capable of detecting and not glaring vehicles in non-adjacent lanes. However, we tentatively conclude that if a system detects and avoids glaring in same lane and adjacent lane scenarios, additional lanes will likely not affect test outcomes. A median of 0 to 20 feet may separate the two lanes. The median may include a barrier wall, but the barrier must not be taller than 12 inches less than the mounting height of the stimulus vehicle's headlamps.

4. Road Surface

We propose that the road surface be of any material (*e.g.,* concrete, asphalt, etc.) but shall not be bright white. Avoiding a bright white road surface will assist in limiting the effects of ambient and reflected light.

We follow SAE J3069 and specify that the road surface have an International Roughness Index (IRI) of less than 1.5 m/km.[120] The IRI is an internationally recognized measure of road surface roughness; the lower the IRI value, the smoother the road, with an IRI of 0 corresponding to a perfectly smooth road. A smooth road is important for the proposed test because an uneven road surface can cause the ADB-equipped vehicle to change pitch, which can lead to anomalies or spikes in the illuminance measurements.[121] This could lead an otherwise compliant headlight beam to exceed the glare

[107] *Id.* at p. 173.

[108] *Id.* at p. 173.

[109] ADB Test Report, p. 110.

[110] *See* Highway Functional Classification Concepts, Criteria, and Procedures, Federal Highway Administration (*hereinafter* ''HFCC''), *available at https://www.fhwa.dot.gov/planning/processes/statewide/related/highway_functional_classifications/fcauab.pdf.* Arterials (such as interstates and expressways) generally handle longer trips; collector roads collect and disperse traffic between arterials and the lower level roads; and local roads provide access function to homes, businesses, and other locations. Arterials provide relatively high levels of mobility and less access, whereas the opposite is true for local roads, and connectors fall in between. Higher levels of mobility are generally associated with higher speeds.

[111] AASHTO Green Book, p. 6–2 (rural collectors); AASHTO Green Book, p. 6–11 (urban collectors); HFCC p. 43 (arterials); AASHTO Green Book, p. 7–2 (rural arterial); AASHTO Green Book, p. 7–27 (urban arterial). Various speed ratings can be used to describe a road—*e.g.,* operating speed, running speed, speed limit, and design speed. The discussion here focuses on design speed, which is ''a selected speed used to determine the various geometric design features of the roadway . . . [and] should be a high-percentile value in this speed distribution curve[.]'' AASHTO Green Book, pp. 2–54 to 2–55.

[112] AASHTO Green Book, p. 5–2 (rural local); p. 5–11 (urban local).

[113] Highway Statistics 2014. Department of Transportation, Federal Highway Administration, *available at https://www.fhwa.dot.gov/policyinformation/statistics.cfm,* Table HM–220 (miles); Table HM–260 (lane-miles). All citations to tables are from this edition of Highway Statistics. We consider arterials and collectors together and separately from local roads because of the way the data is reported. If the analysis were based on vehicle miles traveled, the result would likely be similar. *See* HFCC pp. 22–23.

[114] Calculated from Table HM–53.

[115] Calculated from Table HM–53.

[116] Calculated from Table HM–220.

[117] HFCC, p. 23.

[118] IIHS Headlight Test and Rating Protocol (November 2016), p. 5 (3.3 m).

[119] 2007 Report to Congress, pp. iv–v.

[120] SAE J3069 7.1.

[121] *See* John D. Bullough, Nicholas P. Skinner & Timothy T. Plummer. 2016. Assessment of Adaptive Driving Beam Photometric Performance. SAE Technical Paper 2016–01–1408, doi:10.4271/2016–01–1408, p. 3.

limits. (The photometry requirements and the lower beam pattern are based on a nominally level vehicle headlighting system; an increase in vehicle pitch shifts the beam pattern up, which could glare oncoming or preceding vehicles.)

An IRI value of 1.5 corresponds to a newly paved road without any potholes, pitting, or bumps.[122] The Federal Highway Administration classifies roads with an IRI less than 1.5 as ''Good,'' those with an IRI from 1.5 to 2.7 as ''Fair'', and those with an IRI greater than 2.7 as ''Poor.'' [123] Approximately 37% of pavement miles on Federal-aid highways were rated as having ''Good'' ride quality in 2012.[124] This suggests the proposed IRI value is realistically achievable on a test track because it is realistically achievable on the much less-controlled environments of actual roads. The vehicle test facility at which NHTSA conducted its testing regularly measures the IRI of at least some of its track surfaces and has generally found them to have IRI values within the proposed range.

5. Grade of Test Road

We propose to use a road approximating a uniform, level road, with a longitudinal grade (slope) not exceeding 2%. We are not proposing to test on sloped (dipped or hilly) roads. Even headlights with compliant lower beam photometry can glare oncoming or preceding vehicles on sloped roads because the hill geometry may place that vehicle in the brighter portion of the lower beam pattern. NHTSA's testing was consistent with this, showing ADB headlights and FMVSS-compliant lower beams glared oncoming and preceding vehicles on roads with dips.[125] It would be neither practical nor consistent with the approach of this rulemaking (extending the existing lower beam glare requirements to ADB systems) to require this performance of ADB systems.

c. Repeatability

The Agency has collected extensive testing data and is docketing this data. The Agency has done several different analyses of this data to assess the repeatability of the proposed compliance test.

One method is pooled standard deviation.[126] Same-direction and oncoming curve scenarios tended to have the smallest maximum pooled standard deviation values across all four distance ranges. Also, maneuvers involving the stimulus vehicle (also referred to here as the ''DAS'' vehicle) being stationary tended to have smaller pooled standard deviations. This was especially true for curve maneuver scenarios in which the DAS vehicle was stationary, likely because of the short period of time in which the test vehicle's heading was in the direction of the stimulus vehicle.

Another method is visual analysis of data plots from each scenario the Agency tested.[127] These plots demonstrate each run collected data such that the overall shape of the curve (illuminance as a function of distance) is consistent across each test repetition. In most cases, the deviation between data collection runs is small, and for those where larger differences occur, differences can be reasonably attributable to faulty sensors or lack of rigorous equipment configurations for the particular situation such as the motorcycle photometers were not mounted on the motorcycle itself but were on a car positioned nearby (these data are useful for other findings but not for evaluating repeatability). Finally, these plots allow us to evaluate the extent to which the variability within the test itself can be reasonably accounted for in the basic design of the ADB headlighting system. That is to say, this method allows the Agency to evaluate the magnitude of noise within test results as compared to proposed limits. The method of visual analysis further supports the Agency's tentative conclusion that the proposed test provides manufacturers with adequate notice as to the results of any compliance testing the Agency may conduct on its product. The Agency seeks comment on this analysis and these tentative conclusions.

The Agency further examined its research results to understand the validity of the tests. This examination is part of the basis for which the Agency has confidence the proposed tests can generate accurate results and adequately distinguish between an ADB system that is likely to expose others to excessive glare and an ADB system that will not. Table 5 shows results of NHTSA measurements in the baseline (static) condition in which we would expect the photometry to be the least influenced by uncontrollable factors. This is the most basic progression beyond testing headlamps outside of the typical photometric lab used in most regulatory test procedures. As a general observation, we note the mean of each static measurement is below the proposed glare limits for each distance for a lower beam headlighting system. We also note the upper beam illumination at 120 meters is higher than one would expect for an FMVSS headlighting system; however, we also note all four of these vehicles were originally designed to the UNECE standard, which allows for considerably higher intensity upper beam headlamps. Consistent with the information provided to us by the vehicle manufacturer, the Mercedes-Benz and Audi vehicles' upper beam headlamps appear to be within the FMVSS upper beam maximum limit while the other two vehicles are likely outside of this limit. While we were unable to do a standard laboratory photometry test on these headlamps, these data provide confidence NHTSA measurements are reasonable.

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[122] Michael W. Sayers & Steven M. Karamihas. 1998. The Little Book of Profiling, Basic Information About Measuring and Interpreting Road Profiles. University of Michigan. p. 48.

[123] 2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Report to Congress, Department of Transportation, Federal Highway Administration, Federal Transit Administration, p. 3–4, *available at https://www.fhwa.dot.gov/policy/2015cpr/pdfs.cfm* (last accessed Sept. 26, 2018).

[124] *Id.* p. 3–3. Many states appear to use similar categorization. The Virginia DOT considers interstates and primary roads with an IRI less than .95 to be ''Excellent,'' and those with an IRI from .95 to 1.6 to be ''Good.'' Approximately one third of interstates in Virginia were rated Excellent, and half were rated Good. Virginia Department of Transportation. State of the Pavement 2016. pp. IV–V, *available at http://www.virginiadot.org/info/resources/State_of_the_Pavement_2016.pdf* (last accessed Sept. 26, 2018).

[125] ADB Test Report, pp. 102, 108, 114.

[126] ADB Test Report, pp. 138–146. The pooled variance is a weighted mean of variances of individual groups, groups in this case being the six different test vehicle/stimulus vehicle combinations. This ignores differences in mean values for different groups and compares only the variability within the groups. The pooed standard deviation is the square root of this. Standard deviations calculated by comparing all values to the overall mean are larger because that calculation includes variability between the groups. The pooled standard deviation method of measuring repeatability measures how well values from one repetition to another of the same maneuver compare to each other for any test vehicle even if the means for the different test vehicles are different.

[127] ADB Test Report, pp. 147–162.

Table 5

Baseline Measured Illuminance Values by Headlighting System Mode and Ambient Conditions (Receptor Head 1), Small DAS											
DAS Vehicle Heading	Distance	Vehicle Headlighting System Setting		Audi A8 (n=3)		BMW X5 (n=3)		Lexus LS460 (n=2)		Mercedes-Benz E350 (n=3)	
		ADB	DAS	Average (lux)	SD	Average (lux)	SD	Average (lux)	SD	Average (lux)	SD
NW	N/A	OFF (ambient)	OFF (ambient)	0.01	0.04	0.00	0.01	0.00	0.00	0.00	0.01
	30 m (98 ft.)	OFF	LOWER	0.47	0.03	0.52	0.03	0.49	0.02	0.46	0.01
		LOWER	LOWER	1.41	0.57	2.02	0.06	1.59	0.10	1.74	0.05
		LOWER	OFF	1.27	0.04	1.51	0.10	1.09	0.08	1.27	0.05
		UPPER	OFF	31.48*	0.05	31.48*	0.02	31.48*	0.07	31.50*	0.05
NW	60 m (197 ft.)	LOWER	LOWER	0.95	0.00	0.88	0.04	0.80	0.02	0.97	0.03
		LOWER	OFF	0.47	0.02	0.37	0.03	0.30	0.02	0.48	0.05
		UPPER	OFF	30.77*	1.15	31.49*	0.01	31.47*	0.01	22.95	5.50
NW	120 m (394 ft.)	LOWER	LOWER	0.71	0.09	0.60	0.03	0.56	0.01	0.64	0.05
		LOWER	OFF	0.26	0.09	0.10	0.01	0.10	0.03	0.15	0.01
		UPPER	OFF	10.87	0.48	14.83	0.28	16.92	2.75	6.67	1.15
SE	N/A	OFF (ambient)	OFF (ambient)	0.03	0.03	0.12	0.07	0.07	0.07	0.02	0.01
	30 m (98 ft.)	OFF	LOWER	0.53	0.03	0.72	0.10	0.59	0.07	0.52	0.03
		LOWER	LOWER	1.73	0.08	1.95	0.22	1.68	0.08	1.83	0.03
		LOWER	OFF	1.23	0.09	1.41	0.18	1.15	0.08	1.33	0.03
		UPPER	OFF	31.48*	0.07	31.46*	0.00	31.48*	0.01	31.50*	0.04
SE	60 m (197 ft.)	LOWER	LOWER	0.96	0.01	1.00	0.13	0.90	0.07	0.98	0.01
		LOWER	OFF	0.41	0.10	0.47	0.08	0.38	0.06	0.48	0.01
		UPPER	OFF	28.69	0.56	31.46*	0.00	29.76	1.91	21.20	3.45
SE	120 m (394 ft.)	LOWER	LOWER	0.75	0.03	0.74	0.12	0.67	0.06	0.77	0.10
		LOWER	OFF	0.23	0.05	0.21	0.08	0.16	0.07	0.23	0.03
		UPPER	OFF	10.73	0.31	13.96	1.44	16.91	2.05	6.85	1.05

***Note: Trials averaged to obtain these noted values include at least one instance of measurement clipping because of raw illuminance level data exceeding the measurement range of the illuminance meter**.

Table 6

			Average Maximum Illuminance by Receptor Head 1 Static and Dynamic – Oncoming, Straight, Curve, Adjacent Lane Maneuvers with Small DAS Vehicle											
			Audi			BMW			Lexus			Mercedes-Benz		
			Lower Beam			Lower Beam			Lower Beam			Lower Beam		
Maneuver Scenario	Range (m)	Glare Limit (lux)	Dynamic (n=3)	Baseline (n=3)	% Diff	Dynamic (n=3)	Baseline (n=3)	% Diff	Dynamic (n=3)	Baseline (n=3)	% Diff	Dynamic (n=3)	Baseline (n=3)	% Diff
Straight, DAS 0 mph, ADB 62 mph	15-29.9	3.109	1.63	Not Reported		2.58	Not Reported		1.67	Not Reported		2.27	Not Reported	
	30-59.9	1.776	0.74	1.27	-42%	2.01	1.51	33%	0.94	1.09	-14%	1.05	1.27	-17%
	60-119.9	0.634	0.35	0.47	-26%	0.29	0.37	-22%	0.33	0.30	10%	0.36	0.48	-25%
	120-239.9	0.281	0.18	0.26	-31%	0.03	0.10	-70%	0.14	0.10	40%	0.15	0.15	0%
Straight, DAS 62 mph, ADB 62 mph	15-29.9	3.109	1.50	Not Reported		2.98	Not Reported		1.73	Not Reported		2.27	Not Reported	
	30-59.9	1.776	0.80	1.27	-37%	1.60	1.51	6%	1.06	1.09	-3%	0.98	1.27	-23%
	60-119.9	0.634	0.45	0.47	-4%	0.29	0.37	-22%	0.34	0.30	13%	0.36	0.48	-25%
	120-239.9	0.281	0.23	0.26	-12%	0.03	0.10	-70%	0.15	0.10	50%	0.15	0.15	0%
ADB curves Left, DAS	15-29.9	3.109	1.90	Not Reported		2.00	Not Reported		2.19	Not Reported		2.61	Not Reported	
	30-59.9	1.776	1.07	1.27	-16%	0.86	1.51	-43%	1.23	1.09	13%	1.27	1.27	0%

0 mph, ADB 62 mph	60-119.9	0.634	0.55	0.47	17%	0.18	0.37	-51%	0.58	0.30	93%	0.62	0.48	29%
	120-239.9	0.281	0.46	0.26	77%	0.03	0.10	-70%	0.44	0.10	340%	0.47	0.15	213%
ADB curves Left, DAS 62 mph, ADB 62 mph	15-29.9	3.109	1.93	Not Reported		1.92	Not Reported		1.94	Not Reported		2.54	Not Reported	
	30-59.9	1.776	1.08	1.27	-15%	0.86	1.51	-43%	1.16	1.09	6%	1.26	1.27	-1%
	60-119.9	0.634	0.57	0.47	21%	0.21	0.37	-43%	0.59	0.30	97%	0.64	0.48	33%
	120-239.9	0.281	0.47	0.26	81%	0.07	0.10	-30%	0.47	0.10	370%	0.49	0.15	227%
ADB curves Right, DAS 0 mph, ADB 62 mph	15-29.9	3.109	2.28	Not Reported		1.63	Not Reported		1.75	Not Reported		2.38	Not Reported	
	30-59.9	1.776	1.63	1.27	28%	0.78	1.51	-48%	1.21	1.09	11%	1.35	1.27	6%
	60-119.9	0.634	0.78	0.47	66%	0.22	0.37	-41%	0.57	0.30	90%	0.77	0.48	60%
	120-239.9	0.281	0.57	0.26	119%	0.07	0.10	-30%	0.40	0.10	300%	0.58	0.15	287%
ADB curves Right, DAS 62 mph, ADB 62 mph	15-29.9	3.109	2.54	Not Reported		1.79	Not Reported		1.73	Not Reported		2.44	Not Reported	
	30-59.9	1.776	1.53	1.27	20%	0.73	1.51	-52%	1.14	1.09	5%	1.30	1.27	2%
	60-119.9	0.634	0.71	0.47	51%	0.16	0.37	-57%	0.54	0.30	80%	0.70	0.48	46%
	120-239.9	0.281	0.54	0.26	108%	0.00	0.10	-100%	0.37	0.10	270%	0.52	0.15	247%

Table 6 includes results of the lower beam headlamp illumination measurements when taken through NHTSA dynamic tests including oncoming scenarios, on a curve (right and left), and on a straightaway with the

stimulus vehicle moving and stationary. For purposes of examining the validity of the proposed test, the Agency first considered results of lower beam testing only to remove potential variabilities in test results from the performance of ADB systems. The most closely comparable measurements are the baseline and the straight maneuver as the general orientation for these situations place the vehicle mounted photometers in similar locations for each test. We note measurements for dynamic situations differ from the static in positive and negative ways meaning sometimes the dynamic test produces a higher illumination reading, while in others, it produces a lower illumination measurement as compared to the baseline measurement. Also of significant note, for straight situations, the far distance (120–239.9 m range) produced generally higher percentage differences between the baseline and the dynamic situation. This may be expected as stray light will have a larger percentage contribution considering the smaller base value. Additionally, vehicle pitch variation as measured in angles would have a larger contribution if the lower beam headlamp cutoff were to approach photometers. This second possibility seems the less likely of the two as dynamic measurements were not consistently higher than the baseline measurement for that range and orientation but similar to the other measurement ranges. Sometimes the baseline measurement was higher, and sometimes the dynamic measurements were higher.

Curve situations (both left and right) demonstrated a greater difference between baseline and dynamic tests, particularly at the far distance range. Importantly, the difference did not seem to be compounded with the stimulus vehicle moving as opposed to stationary. One possible explanation for the difference between baseline results and curve results is the orientation of the two vehicles is different. While for the straight situations photometers are in a similar place within the test vehicles' headlamp beam pattern, for the curve situation the vehicle orientation moves the stimulus vehicle (and mounted photometers) out toward larger horizontal angles of the beam pattern where the intensity of light seems to be higher in three of these test vehicles. The BMW consistently did not demonstrate this difference, leading the Agency to believe the test is measuring true differences in vehicles' beam patterns even at large angles in the curve situation. Additionally, the right curve with and without the stimulus vehicle moving recorded similar results as the left curve with and without the stimulus vehicle moving for each of the vehicles tested. As such, the Agency tentatively concludes the difference between baseline and curve situations do not demonstrate variability within the test procedure itself but are caused by variations in beam patterns of test vehicles. Not the topic of this section, however, this examination leads the Agency to tentatively conclude situations in which these far distance curves produced glare beyond tentative limits can be designed out of headlamps.

Considering the confidence established in the Agency's ability to measure lower beam performance in an outdoor test on-vehicle, the Agency next evaluated the performance of the ADB system and evaluated the tests' ability to measure ADB headlighting systems in a dynamic way. First, we compared oncoming straight results between lower beam and ADB as shown in Table 7.

Table 7

			Audi (n=3)			BMW (n=3)			Lexus (n=3)			Mercedes-Benz (n=3)		
Maneuver Scenario	Range (m)	Glare Limit (lux)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)
Straight, DAS 0 mph, ADB 62 mph	15-29.9	3.109	1.63	2.00	1.23	2.58	3.23	1.26	1.67	1.50	0.90	2.27	2.50	1.10
	30-59.9	1.776	0.74	0.78	1.06	2.01	1.85	0.92	0.94	0.99	1.05	1.05	1.14	1.08
	60-119.9	0.634	0.35	0.32	0.90	0.29	0.37	1.28	0.33	0.44	1.34	0.36	0.41	1.16
	120-239.9	0.281	0.18	0.14	0.80	0.03	0.05	1.99	0.14	0.37	2.70	0.15	0.16	1.05
Straight, DAS 62 mph, ADB 62 mph	15-29.9	3.109	1.50	2.89	1.93	2.98	2.99	1.01	1.73	1.49	0.86	2.27	2.34	1.03
	30-59.9	1.776	0.80	0.81	1.01	1.60	1.95	1.22	1.06	0.94	0.89	0.98	1.04	1.07
	60-119.9	0.634	0.45	0.42	0.93	0.29	0.38	1.33	0.34	0.35	1.04	0.36	0.39	1.09
	120-239.9	0.281	0.23	0.22	0.98	0.03	0.08	2.65	0.15	0.22	1.46	0.15	0.14	0.93

We expected the straight scenario would pose the least difficult situation for the performance of the ADB system itself and allow the Agency to evaluate the test. As such, we expected ADB results to be similar to lower beam results for the same maneuver. Table 7 compares the maximum illumination value recorded for lower beam headlamps as compared to ADB systems and presents the quotient of the ADB divided by the lower beam. Ideally, we would expect the quotient to equal 1. A value less than 1 identifies results in which the ADB is dimmer than the lower beam, while values greater than 1 identify results in which the ADB is brighter than the lower beam. In general, the results indicate the quotient is close to 1 with some exceptions. The far distance range produced a quotient 2.65 on the BMW, meaning ADB system results for that range are more than twice as bright as lower beam results. This result is, however, a ratio of small numbers, namely 0.08 divided by 0.03. To provide context around these small numbers, the research threshold value for that range is 0.281 (0.3 as proposed today), much greater than recorded results for either headlighting system. The far distance range for the Lexus vehicle produced a ratio of 2.7 meaning ADB results are approaching three times as bright as the lower beam. Unlike results for the BMW, the Lexus measurements are not particularly small numbers. In fact, the ADB measurement for that test was 0.37 lux, which is above the research threshold for the far distance range. Interestingly, the Mercedes-Benz ADB results were within 16% of lower beam results for all ranges corresponding to the straight maneuver. This leads the Agency to the tentative conclusion favorable ratios between the lower beam and ADB systems are technically possible, and the test procedure is useful in discerning the performance of the ADB system in the straight maneuver.

The Agency research also included the evaluation of more complex maneuvers and scenarios to evaluate the ADB performance in situations that are more likely to challenge the ADB system's functionality. Table 8 presents results of the ADB system's performance on the curve maneuver.

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Table 8

Curve Scenarios

			Audi (n=3)			BMW (n=3)			Lexus (n=3)			Mercedes-Benz (n=3)		
Maneuver Scenario	Range (m)	Glare Limit (lux)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)	Lower Beam Illuminance (lux)	ADB Illuminance (lux)	Quotient (ADB / Lower Beam)
ADB curves Left, DAS 0 mph, ADB 62 mph	15-29.9	3.109	1.90	2.05	1.08	2.00	2.22	1.11	2.19	2.24	1.02	2.61	2.77	1.06
	30-59.9	1.776	1.07	1.22	1.14	0.86	1.00	1.17	1.23	1.32	1.07	1.27	1.42	1.11
	60-119.9	0.634	0.55	1.61	2.92	0.18	0.38	2.14	0.58	0.81	1.41	0.62	1.06	1.71
	120-239.9	0.281	0.46	0.50	1.09	0.03	0.07	1.96	0.44	0.49	1.10	0.47	0.59	1.27
ADB curves Left, DAS 62 mph, ADB 62 mph	15-29.9	3.109	1.93	2.08	1.08	1.92	2.11	1.10	1.94	1.88	0.97	2.54	2.77	1.09
	30-59.9	1.776	1.08	1.22	1.13	0.86	0.92	1.07	1.16	1.30	1.12	1.26	1.40	1.11
	60-119.9	0.634	0.57	1.99	3.49	0.21	0.79	3.76	0.59	1.92	3.23	0.64	1.60	2.49
	120-239.9	0.281	0.47	0.50	1.07	0.07	0.11	1.48	0.47	0.51	1.07	0.49	0.60	1.23
ADB curves Right, DAS 0 mph, ADB 62 mph	15-29.9	3.109	2.28	2.59	1.14	1.63	1.60	0.98	1.75	2.14	1.22	2.38	2.45	1.03
	30-59.9	1.776	1.63	1.61	0.98	0.78	0.77	0.98	1.21	1.21	0.99	1.35	1.39	1.03
	60-119.9	0.634	0.78	2.95	3.77	0.22	1.24	5.58	0.57	1.64	2.87	0.77	1.14	1.49
	120-	0.281	0.57	0.65	1.15	0.07	0.14	1.98	0.40	0.42	1.05	0.58	0.89	1.53

	239.9													
ADB curves Right, DAS 62 mph, ADB 62 mph	15-29.9	3.109	2.54	2.64	1.04	1.79	1.78	0.99	1.73	2.36	1.36	2.44	2.74	1.12
	30-59.9	1.776	1.53	1.95	1.27	0.73	0.75	1.03	1.14	11.19	9.80	1.30	1.46	1.12
	60-119.9	0.634	0.71	3.23	4.53	0.16	2.33	14.37	0.54	4.28	7.93	0.70	1.54	2.21
	120-239.9	0.281	0.54	0.61	1.12	0.00	0.06	275.97	0.37	0.40	1.09	0.52	0.84	1.61

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As discussed previously, the lower beam exceeded research thresholds for the long range for all vehicles except the BMW. Beyond this, several ADB performance aspects were observed in this test. Again, building on the lower beam performance, the ADB performance was evaluated as a quotient of the maximum illumination as compared to the lower beam for each distance range. Audi results showed high quotients for each of the curve tests for the 60–119.9 m range. Not only is the quotient high, the maximum illumination for that range was reported as 1.61, 1.99, 2.95, and 3.23 lux as presented in the table above. To put these values in perspective, the research threshold for that range is 0.634 lux. While the lower beam, in some cases, exceeded this threshold, the maximum exceedance for the lower beam was a measurement of 0.78 over the threshold by just 23% on the Audi. Based on the confidence in the Agency's test, established in the previous discussion, the Agency tentatively concludes differences shown on curves are true differences in the ADB performance and not variability in the test itself. To further establish this tentative conclusion, the Agency looked at details of the test and plotted the illuminance as a function of distance as shown below. Results for the oncoming curve-left test show the passenger car stimulus vehicle and the SUV stimulus vehicle where both the stimulus vehicle and the ADB vehicles are moving at 62 mph.

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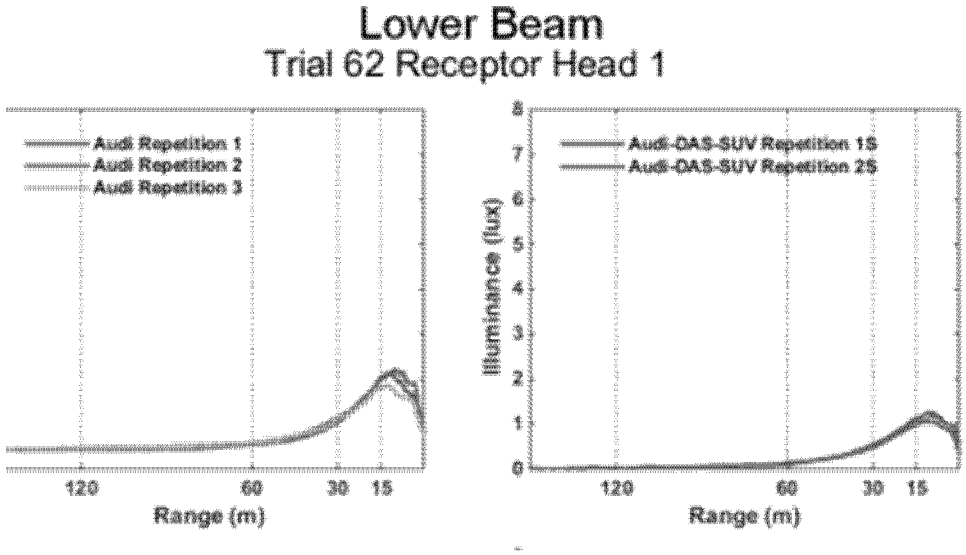

Figure 2

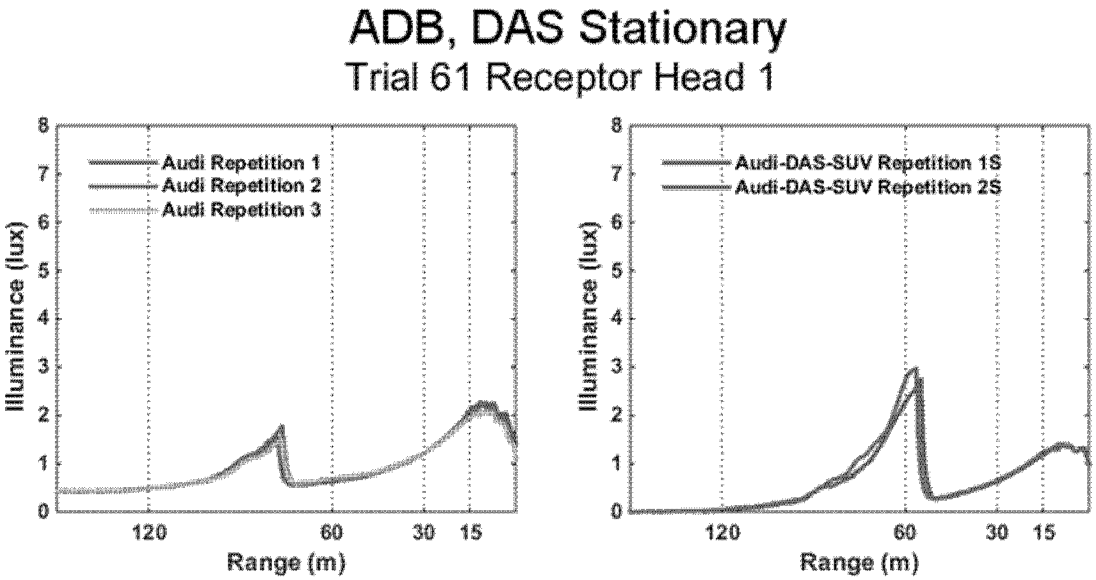

Figure 3

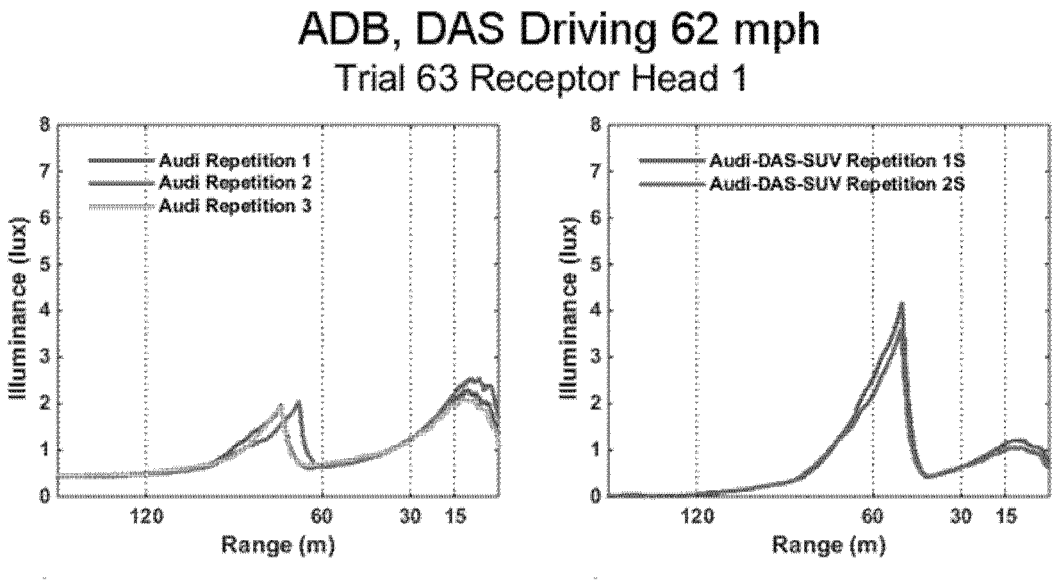

Figure 4

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By comparing the plots, we can see the ADB system is providing a full upper beam (or at least not shading the stimulus vehicle) until suddenly recognizing and dramatically lowering the glare (at round 70 m for the moving passenger car stimulus vehicle and 50 m for the moving SUV stimulus vehicle). The sudden lowering of the illuminance appears to happen sooner for the two stationary stimulus vehicles. The Agency tentatively considers this outcome a byproduct of the ADB system's lack of ability to view, classify, and adapt to an oncoming vehicle through a curve at a realistic but generally high-speed interaction. Further support of this tentative conclusion is that for each of the curve interactions listed above, glare measurements are higher when the stimulus is moving as compared to when it is stopped for the 60–119.9 m range.

Taken together, these results support the Agency's tentative conclusion that the proposed test is repeatable and sufficient in its ability to measure ADB performance using a vehicle-based, dynamic test. Further, the Agency tentatively concludes the variability in the test is small enough that a manufacturer can reasonably anticipate results of any compliance test the Agency would conduct if taken into consideration during design stages of the vehicle and headlighting system.

IX. Certification and Aftermarket

Motor vehicle manufacturers are required to certify that their vehicles comply with all applicable FMVSS.[128] FMVSS No. 108 also applies to replacement equipment (*i.e.,* equipment sold on the aftermarket to replace original equipment installed on the vehicle and certified to FMVSS No. 108 at the time of the first sale to a purchaser other than for resale).[129] Replacement equipment must be designed to conform to meet any applicable requirements and include all functions of the lamp it is designed to replace or capable of replacing.[130] Each replacement lamp which is designed or recommended for particular vehicle models must be designed so that it does not take the vehicle out of compliance with the standard when the individual device is installed on the vehicle.[131] A manufacturer of replacement equipment is responsible for certifying that equipment.[132] It may be the case that only the manufacturer of the original equipment and/or vehicle would be able to make a good faith certification of ADB replacement equipment because requirements are vehicle-level, not equipment level. We seek comment on this.

X. Regulatory Alternatives

The two main regulatory alternatives NHTSA considered were the ECE ADB requirements and SAE J3069. However, as noted earlier, the ECE requirements are not sufficiently objective to be incorporated into an FMVSS. Accordingly, the main regulatory alternative we considered is SAE J3069.

In the preceding sections of this document we discussed in detail specific aspects in which the proposal follows and differs from SAE J3069. In general, there are two major ways in which they differ.

First, the proposal would require a more robust and realistic track test to evaluate glare. This track test is the major element of the proposed rule. It is ultimately based—as is the SAE J3069 track test—on the glare limits developed in NHTSA's Feasibility Study. These glare limits are the foundational element of the track test. The proposal and SAE J3069 differ somewhat in the way the proposed glare limits are specified, but they are largely similar. The proposal differs significantly from SAE J3069, however, in the way that it would test for compliance with these glare limits. SAE J3069 specifies testing on a straight portion of road, and instead of using oncoming or preceding vehicles, uses stationary test fixtures positioned at precisely specified locations adjacent to the test track. The proposed test procedure would permit the Agency to test on curved portions of road (with various radii of curvature) using a broad range of actual FMVSS-certified vehicles as oncoming or preceding vehicles.

Second, the proposal would require additional laboratory-tested equipment-level photometric requirements to regulate both glare and visibility. With

[128] *See, e.g.* 49 U.S.C. 3015.

[129] S3.3 (the standard applies to ''[l]amps, reflective devices, and associated equipment for replacement of like equipment on vehicles to which this standard applies.'').

[130] S6.7.1.1.

[131] S6.7.1.2.

[132] 49 U.S.C. 30115; Letter from Stephen Wood, Acting Chief Counsel, to George Van Straten, Van Straten Heated Tail Light Co., Inc. (Aug. 11, 1989).

respect to glare prevention, we propose to require that the part of the ADB beam that is cast near other vehicles must not exceed the current low beam maxima, and the part of an ADB beam that is cast onto unoccupied roadway must not exceed the current upper beam maxima. SAE J3069 requires the former but not the latter. With respect to visibility, we propose that the part of the ADB beam that is cast near other vehicles must comply with the current lower beam minima, and that the part of the ADB beam that is cast onto unoccupied roadway comply with the upper beam minima. SAE J3069 does not have any laboratory-based requirements for the former, and for the latter specifies the low beam minima, not the upper beam minima.

NHTSA has tentatively concluded that the differences between the proposal and SAE J3069 are necessary to ensure the ADB systems meet the dual safety needs of glare prevention and visibility.

NHTSA is particularly concerned about ensuring, to a reasonable degree, that ADB systems do not glare other motorists. The attraction of ADB is that it is able—if designed and functioning properly—to provide enhanced illumination while not glaring other motorists. However, if an ADB system does not perform as intended, it does have the potential to glare other motorists. NHTSA is particularly concerned about this because glare is a negative externality that might not be sufficiently mitigated by market forces alone. Headlamp design involves an inherent tension between forward illumination and glare. A vehicle manufacturer's incentive, absent regulation, might be to provide forward illumination at the expense of glare prevention because the benefits of forward illumination are enjoyed by the vehicle owner, while glare prevention principally benefits other motorists. NHTSA is especially mindful of the many comments and complaints NHTSA has received from the public expressing concerns about glare. The proposed regulation is, therefore, largely focused on glare. This is consistent with the current headlamp regulations, which have included photometry requirements regulating glare since the standard's inception.

NHTSA tentatively believes that the proposed requirements are preferable to SAE J3069. The proposed track test would require that ADB systems be able to negotiate a variety of real-world conditions and not simply be engineered to recognize specified fixtures. We tentatively believe the proposal will lead to ADB systems that prevent glare more effectively, particularly in real-world situations where the other vehicle enters the field of view of the ADB camera from the side and not from a far distance. We also believe that requiring that the part of the ADB beam that is cast near other vehicles must not exceed the current low beam maxima, and the part of the ADB beam that is cast onto unoccupied roadway must not exceed the current upper beam maxima would provide further assurance against glare compared to the less stringent SAE specifications. We tentatively conclude that the regulatory requirements we are proposing would meet the need for vehicle safety and would be sufficient to determine whether an ADB system was functioning properly so as not to glare other motorists.

While the bulk of the proposal is related to glare, and there is reason to believe that manufacturers have an incentive to provide sufficient forward illumination, we also include a very limited set of laboratory tests to ensure a minimum level of visibility. NHTSA tentatively believes that the limited set of proposed laboratory photometric tests not included in SAE J3069 would provide important safety assurances. These laboratory-based requirements only require that the ADB complies with the existing photometry requirements that ensure that minimum levels of illumination are provided. We tentatively believe that if ADB systems did not provide these minimum levels of illumination the driver might not have sufficient visibility.

At the same time, we tentatively believe that more stringent requirements relating to visibility are not necessary. Manufacturers have a market incentive to provide drivers with sufficient illumination. In addition, if an ADB system is malfunctioning in not providing adequate illumination, vehicle owners can file complaints both with the manufacturer and NHTSA. This would make it possible for NHTSA to identify the safety concern, open a defect investigation, and, if the investigation suggests the ADB system is defective, require the OEM to recall and remedy the vehicle. This is largely not the case for glare, because a motorist who is glared by another vehicle is rarely able to identify that vehicle and submit a complaint. Moreover, we believe potential safety benefits of ADB technology justify focusing on what we believe is the most acute regulatory concern (glare), and not including equally stringent requirements and test procedures related to visibility. Based on the Agency's testing, and on the experience with ADB systems in Europe and Asia, it appears that current systems have generally been providing adequate illumination. However, we tentatively believe these minimum requirements are necessary.

A more detailed discussion of the expected likely costs and benefits of the proposal as compared to SAE J3069 is provided below in Section XI, Overview of Costs and Benefits.

As an alternative to the proposed requirements and compliance test procedures, the Agency could more closely follow SAE J3069. We earlier discussed specific ways in which we depart from SAE J3069. We could choose to conform to SAE J3069 with respect to some or all of these test attributes. The major ways the proposal could further conform to SAE J3069 would be by using stationary fixtures, instead of moving vehicles, limiting the array of road geometries we would test with, and not requiring the additional laboratory-based photometric requirements not also included in SAE J3069. We could also incorporate SAE J3069 by reference.

We seek comment on the relative merits of the proposal and SAE J3069 generally, and the advisability of conforming to or departing from SAE J3069 in any of these respects. In particular, with respect to differences between the proposal and SAE J3069: What are the relative merits and drawbacks of each with respect to the statutory criteria of objectivity, practicability, meeting the need for safety, and appropriateness for the type of vehicle? NHTSA is also interested in views regarding differences between the proposal and SAE J3069 in terms of the repeatability of test results. NHTSA is also interested in learning whether there are any other alternatives that should be considered by the Agency.

XI. Overview of Benefits and Costs

NHTSA has considered the qualitative costs and benefits of the proposal. (For the reasons discussed in Section XI, Overview of Benefits and Costs, NHTSA has not quantified the costs and benefits of the proposal.) NHTSA has analyzed the qualitative costs and benefits of the proposal compared to both the current baseline in which ADB systems are not deployed as well as the primary regulatory alternative (SAE J3069). Based on this analysis, NHTSA tentatively concludes that ADB should be permitted and that the proposed requirements and test procedures are the preferred regulatory alternative.

a. Proposal Compared to Current Baseline in Which ADB is Not Deployed

We have tentatively concluded that the proposal to permit ADB and subject it to requirements and test procedures to ensure that it does not glare other motorists and provides sufficient visibility would have greater net benefits than maintaining the status quo.

We have tentatively determined that the proposal to permit ADB and subject it to requirements and test procedures would lead to greater benefits than maintaining the status quo in which ADB is not deployed. The anticipated benefits are a decrease in fatalities and injuries associated with crashes involving pedestrians, cyclists, animals, and roadside objects due to the improved visibility provided by ADB. The improved visibility is a result of increased upper beam use and an enhanced lower beam. Although it is difficult to estimate these benefits, NHTSA performed a data analysis to explore how driving in better light conditions affects pedestrian and cyclist fatalities. The analysis focused on pedestrian/cyclist fatalities and injuries under various light conditions and explored the correlation between pedestrian/cyclist fatalities and injuries with light conditions, as well as several other risk factors (location, speed limit, alcohol use, and driver distraction). The analysis used data from the Agency's Fatality Analysis Reporting System and the National Automotive Sampling System General Estimate System. These databases contain detailed information on crashes involving fatalities and injuries, respectively, including information on the conditions under which the crashes occurred. This analysis suggests that the size of the target population—pedestrian and cyclist fatalities that occur in darkness—is 15,065 over 11 years or 1,370 per year. This analysis is discussed in more detail in Appendix A. The Agency tentatively concludes this analysis demonstrates that a properly-functioning ADB system could provide significant safety benefits beyond that provided by existing headlighting systems.[133]

The possible disbenefits of this rulemaking would be any increases in glare attributable to ADB. A properly-functioning ADB system would not produce more glare than current headlights because it would accurately recognize and shade oncoming and preceding vehicles. The Agency's research testing of ADB-equipped vehicles leads NHTSA to tentatively conclude that an ADB system that complied with the proposed requirements would not lead to any significant increases in glare. Accordingly, we do not expect any significant disbenefits.[134]

ADB is currently not permitted by FMVSS No. 108, and is therefore not currently available to consumers. The proposed rule, by allowing the introduction of ADB systems, would expand the set of choices open to consumers. ADB systems are optional, and the proposed rule in no way restricts or imposes additional costs or requirements on any existing technologies that consumers are currently able to purchase. Consumers are therefore no worse off under the proposal. Because the proposal expands the set of consumer choices (compared to the status quo), it is an enabling regulation. The estimated cost savings of an enabling regulation would include the full opportunity costs of the previously foregone activities (*i.e.,* the sum of consumer and producer surplus, minus any fixed costs).

Because we expect positive benefits and cost savings from enabling the use of new technologies, we tentatively conclude that the proposal would lead to higher net benefits compared to the status quo. We seek comment on the potential benefits and cost savings of this proposal, including quantitative data that could help estimate their magnitude.

b. Proposal Compared to SAE J3069

NHTSA also compared the proposal to SAE J3069. As discussed below, although the proposal is likely more costly (due to higher compliance testing and equipment costs), these higher costs are likely outweighed by the higher safety-related benefits (and lower glare disbenefits).

The proposal would likely result in greater benefits than the regulatory alternative because the proposed requirements require more illumination (but not at levels that would glare other motorists). Above we broadly estimated the size of the target population. We tentatively believe that the proposed requirements would be more effective—*i.e.,* more likely to lead to a greater reduction in crashes—than SAE J3069 because the proposal would require ADB systems to provide more illumination. Two of the proposed laboratory-based photometric requirements do this. We propose that the part of the ADB beam that is cast near other vehicles must comply with the current lower beam minima, and that the part of the ADB beam that is cast onto unoccupied roadway comply with the upper beam minima. SAE J3069 does not have any laboratory-based requirements for the former, and for the latter specifies the lower beam minima, not the upper beam minima. We believe the proposed requirements would offer meaningful safety assurances. The lower and upper beam minima have been in place for decades. They indicate what have been the longstanding minimum acceptable levels of illumination for adequate visibility. Along with this, they provide an appropriate tradeoff between illumination and glare. While requiring the lower beam minima for the dimmed portion of the ADB beam may not provide much benefit when the ADB system is dimming portions on an oncoming or proceeding vehicle, any activation of the dimmed region due to a false positive (dimming for a lamp post or sign) could have safety implications (because there would not be another vehicle's headlamps to illuminate the road). Because SAE J3069 does not require ADB systems to meet any minima within the dimmed portion of the ADB beam, it could lead to insufficient illumination. On the other hand, it might be possible that the more demanding road test we propose to test for glare could incentivize manufacturers to equip vehicles with ADB systems that provide less illumination (to ensure that they do not fail the glare road test) than they would if we adopt requirements more similar to SAE J3069. However, we tentatively believe the proposed requirements will result in a greater reduction in crashes due to increased illumination.[135]

[133] As discussed in Appendix A, the analysis requires a variety of assumptions and, while partially accounting for some confounding factors (such as alcohol-related crashes), is not able to isolate the effect of darkness on crash risk. (Toyota also estimated the target population, using a different methodology, in its rulemaking petition.) Determining a more specific target population is difficult because of a variety of data limitations (*e.g.,* headlamp state (on-off, upper-lower beam) is not known in many of the pedestrian crashes).

[134] We do recognize, as the ADB Test Report notes, that there are situations in which ADB might not adequately perform, such as at intersections and on dipped segments of roadway. We believe that at intersections the safety concern is lessened because the encountered vehicle is likely stationary. We also note that current headlights, which are unable to actively adapt the beam, can glare other vehicles at intersections and on dipped roads because the roadway geometry becomes such that those vehicles are exposed to relatively bright portions of the beam.

[135] The proposal and the alternative both are most likely to be cost-effective using the DOT's $9.7 million value of a statistical life. However, due to the relatively more stringent performance requirements of the proposal, it would likely accrue more safety benefits than does the alternative.

The Agency has also tentatively concluded that the proposed requirements would lead to smaller disbenefits in terms of glare than the regulatory alternatives, for two reasons. First, the proposal requires a much more realistic road test to evaluate glare, including actual vehicles and curved portions of the roadway, instead of fixtures simulating vehicles and curves. This would require that ADB systems be able to meet a variety of real world conditions and not simply be engineered to recognize specified fixtures. We tentatively believe this will lead to less glare, particularly in real-world situations where the other vehicle enters the field of view of the ADB camera from the side and not from a far distance (such as situations in which the ADB-equipped vehicle is overtaken or encounters an oncoming vehicle on a small-radius curve). Second, the proposal would require that in the undimmed portion of the ADB beam the current upper beam maxima be met; SAE J3069 does not specify any maxima. The upper beam maxima limit the amount of light projected on objects that are not detected by the ADB system such as cyclists, pedestrians, and houses near the road.

NHTSA tentatively concludes that the proposed rule would likely have higher costs than SAE J3069. This is due to compliance testing costs, and, possibly, to component costs.

We would expect higher costs for compliance testing. The proposed road test for compliance with the proposed glare limits is more complex than the testing required by SAE J3069 because it involves actual test vehicles and more scenarios. The proposal also includes requirements for static photometry testing that are not included in SAE J3069. If a manufacturer concluded that testing was necessary to certify an ADB system, then testing for compliance with the proposal would be more costly than compliance testing for a standard more closely based on SAE J3069.

We do not expect design and development costs to be significantly higher than they would be under SAE J3069. ADB is currently offered as an optional system in Europe, among other markets. We tentatively believe that the European ADB (if modified to produce a U.S.-compliant beam [136]) systems are essentially capable of complying with the proposed requirements. The Agency tested a variety of European vehicles in a road test similar to the one that is proposed today to measure glare. The vehicles passed many of the scenarios we tested, although we observed that the ADB systems had difficulties staying within the glare limits when encountering oncoming vehicles on curves when both vehicles were travelling at approximately 60 mph. In consideration of these test results, the proposal does not include any tests on curves at these higher speeds. (In the proposal, we are proposing that the vehicle's speeds not exceed 45 mph in this scenario.)

However, we do believe that it could be more costly to equip a vehicle with an ADB system that complies with the proposal rather than with the minimum requirements of SAE J3069. For instance, the proposal requires that the undimmed portion of the ADB beam meet the current upper beam minima. The European systems we tested similarly used the upper beam (ECE driving beam) to illuminate regions outside the dimmed portion of the beam. SAE J3069, however, requires only that the lower beam minima be met in this region. Accordingly, an SAE J3069-compliant system could use a lower cost light source. As another example, while the European systems NHTSA tested employed relatively sophisticated LED arrays or shading devices, a system that complied with the minimum requirements of SAE J3069 could employ less sophisticated technology.

NHTSA has tentatively concluded that the likely additional (*i.e.,* as compared to SAE J3069) benefits associated with the proposal exceed the likely additional costs of the proposal. The somewhat greater costs it would require to equip a vehicle with an ADB system that complies with the proposed requirements would likely be outweighed by the greater benefits (and smaller glare disbenefits) that we tentatively believe would be likely to result from the proposal. For instance, a system that saved money on a narrow field of view camera would not provide glare protection on small radius curves in real world driving. Additionally, any cost savings to be gained from a less intense light source used for the undimmed portion of the beam would be negated by the relative increase risk to pedestrian detection.

NHTSA seeks comment on all these issues, in particular the relative costs of compliance with the proposal, SAE J3069, and the ECE requirements (especially specific data and cost estimates), as well as the relative benefits of these alternatives.

[136] Because the headlamp photometry requirements in FMVSS No. 108 differ from ECE-required photometry, in order for an ECE-compliant system to be sold in the U.S., the headlamp photometry would need to be modified, which would entail some design cost. This is true for any European-model vehicle sold in the U.S.

XII. Rulemaking Analyses

Executive Order 13771

Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or Agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements. As discussed below, this rule is not a significant rule under Executive Order 12866. However, 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 economic analysis.

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies require determinations as to whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the aforementioned Executive Orders. Executive Order 12866 defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the potential impact of this proposal under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This NPRM is not significant and so was not reviewed under E.O. 12866.

However, pursuant to E.O. 12866 and the Department's policies, we have identified the problem this NPRM intends to address, considered whether existing regulations have contributed to the problem, and considered alternatives. Because this rulemaking has been designated nonsignificant, quantification of benefits is not required under E.O. 12866, but is required, to the extent practicable, under DOT Order 2100.5. NHTSA has tentatively determined that quantifying the benefits and costs is not practicable in this rulemaking.

Quantifying the benefits of the proposal—the decrease in deaths and injuries due to the greater visibility made possible by ADB—is difficult because of a variety of data limitations related to accurately estimating the target population and the effectiveness of ADB. For example, headlamp state (on-off, upper-lower beam) is not reflected in the data for many of the pedestrian crashes. Nevertheless, we attempt to broadly estimate the magnitude of the target population in Appendix A. (Toyota's rulemaking petition also includes a target population analysis using a different methodology.)

Quantification of costs is similarly not practicable. The only currently-available ADB systems are in foreign markets such as Europe. We tentatively believe that an ECE-approved ADB system (modified to have FMVSS 108-compliant photometry) would be able to comply with the proposed requirements. It would be possible for NHTSA to estimate the cost of such systems by performing teardown studies, but we have not done so. Among other reasons, even if NHTSA performed tear-down studies for ECE-approved systems, NHTSA would still need to estimate the cost of the compliance with the main regulatory alternative, SAE J3069. However, there are not any SAE J3069-compliant systems on the market to use in a tear-down cost analysis because ADB systems are not currently available in the U.S. It might be possible for NHTSA to estimate the costs of an SAE J3069-compliant system with an engineering assessment, but such an assessment would require additional time and resources.

We therefore tentatively conclude that a quantitative cost-benefit analysis is not currently practicable. We believe that a qualitative analysis (see Section XI, Overview of Benefits and Costs) is sufficient to reasonably conclude that the proposed requirements are preferable to the current regulatory alternative.

Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

> The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Although this proposal is different than comparable foreign regulations, we believe that the proposed requirements have the potential to enhance safety.

Executive Order 13132 (Federalism)

NHTSA has examined this proposed rule pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The Agency has concluded that the rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law address the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e) Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State common law tort causes of action by virtue of NHTSA's rules—even if not expressly preempted.

This second way that NHTSA rules can preempt is dependent upon the existence of an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer—notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

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

To this end, the Agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of this proposed rule and does not foresee any potential State requirements that might conflict with it. We do note that many or most states have laws that regulate lower and upper beam use. These laws require that a motorist use a lower beam within a certain distance of an oncoming or preceding vehicle. We do not believe that there is a conflict between the proposed rule and these laws because the proposed rule would allow an additional type of lower beam. A vehicle equipped with a compliant and properly functioning ADB system should not glare other vehicles, as long

as the proposed requirements are sufficient to meet the goals of this proposal—*i.e.,* to protect oncoming and preceding motorists from glare. NHTSA does not intend that this proposed rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by this rule. Establishment of a higher standard by means of State tort law would not conflict with the standards proposed in this NPRM. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) requires Federal agencies to analyze the environmental impacts of proposed major Federal actions significantly affecting the quality of the human environment, as well as the impacts of alternatives to the proposed action. 42 U.S.C. 4332(2)(C). When a Federal agency prepares an environmental assessment, the Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR parts 1500–1508) require it to ''include brief discussions of the need for the proposal, of alternatives [. . .], of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.'' 40 CFR 1508.9(b). This section serves as the Agency's Draft Environmental Assessment (Draft EA). NHTSA invites public comments on the contents and tentative conclusions of this Draft EA.

Purpose and Need

This notice of proposed rulemaking sets forth the purpose of and need for this action. As explained earlier in this preamble, ADB technology improves safety by providing a variable, enhanced lower beam pattern that is sculpted to traffic on the road, rather than just one static lower beam pattern, thereby providing more illumination without glare to other motorists. In addition, ADB technology will likely lead to increased upper beam use, thereby improving driver visibility distance at higher speeds. In this document, NHTSA tentatively concludes that FMVSS No. 108 does not currently permit ADB technology. This proposal therefore reconsiders the currently-existing standard by addressing the safety needs of visibility and glare prevention to improve safety. This proposal considers and invites comment on how best to ensure that ADB technology improves visibility without increasing glare.

Alternatives

NHTSA has considered a range of regulatory alternatives for the proposed action. Under a ''no action alternative,'' NHTSA would not issue a final rule amending FMVSS No. 108, and ADB technology would continue to be prohibited. NHTSA has also considered the ECE requirements and SAE J3069, which are described above in this preamble. Under this proposal, NHTSA incorporates elements from these standards, but departs from them in significant ways, which are also described above. NHTSA invites public comments on its proposal.

Environmental Impacts of the Proposed Action and Alternatives

This proposed action is anticipated to result in increased upper beam use as well as greater illumination from lower beams (albeit in patterns designed to prevent glare to other motorists). As a result, the primary environmental impacts anticipated to result from this rulemaking are associated with light pollution, including the potential disruption of wildlife adjacent to roadways. The National Park Service (NPS) defines ''light pollution'' as the introduction of artificial light, either directly or indirectly, into the natural environment.[137] Forms of light pollution include sky glow (the bright halo over urban areas at nighttime), light trespass (unintended artificial lighting on areas that would otherwise be dark), glare (light shining horizontally), and overillumination (excess artificial lighting for a specific activity).[138] Light pollution caused by artificial light can have various effects on flora and fauna, including disrupting seasonal variations and circadian rhythms, disorientation and behavioral disruption, sleep disorders, and hormonal imbalances.[139]

Although this rule is anticipated to result in increased levels of illumination caused by automobiles at nighttime, NHTSA does not believe these levels would contribute appreciably to light pollution in the United States. First, the Agency proposes to require that the part of an ADB beam that is cast near other vehicles not exceed the current low beam maxima and the part of an ADB beam that is cast onto unoccupied roadway not exceed the current upper beam maxima. Although overall levels of illumination are expected to increase from current levels due to increased high beam use and the sculpting of lower beams to traffic on the road, total potential brightness would not be permitted to exceed the potential maxima that already exists on motor vehicles today. These maxima would not only reduce the potential for glare to other drivers, but would also limit the potential impact of light pollution.

Second, we note that ADB systems remain optional under the proposal. Because of the added costs associated with the technology, NHTSA does not anticipate that manufacturers would make these systems standard equipment in all of their vehicle models at this time. Thus, only a percentage of the on-road fleet would feature ADB systems, while new vehicles without the systems would be anticipated to continue to have levels of illumination at current rates.

Third, while ADB systems generally would increase horizontal illumination, they likely would not contribute to ambient light pollution to the same degree as other forms of illumination, such as streetlights and building illumination, where light is intentionally scattered to cover large areas or wasted due to inefficient design, likely contributing more to the nighttime halo effect in populated areas. According to NPS, the primary cause of light pollution is outdoor lights that emit light upwards or sideways (but with an upwards angle).[140] As the light escapes upward, it scatters throughout the atmosphere and brightens the night sky. Lighting that is directed downward, however, contributes significantly less to light pollution. Lower beams generally direct light away from oncoming traffic and downward in order to illuminate the road and the environs close ahead of the vehicle while minimizing glare to other road users. As a result, any increases in lower beam illumination are not anticipated to contribute meaningfully to light pollution. As discussed further in the next paragraph, increases in upper beam illumination would be anticipated largely in less populated areas, where oncoming traffic is less frequent and small sources of artificial light (such as motor vehicles) likely would not change ambient light levels at nighttime to a meaningful degree.

Fourth, NHTSA believes that the areas that would see the greatest relative increase in nighttime illumination are predominantly rural and unlikely to experience widespread impacts. The

[137] National Park Service, Light Pollution. *https://www.nps.gov/subjects/nightskies/lightpollution.htm* (last accessed Sept. 26, 2018).

[138] Chepesiuk, R. 2009. Missing the Dark: Health Effects of Light Pollution. *Environmental Health Perspectives,* 117(1), A20–A27.

[139] *Id.*

[140] NPS, Light Pollution Sources. *https://www.nps.gov/subjects/nightskies/sources.htm* (last accessed Sept. 26, 2018).

Agency's proposal would require ADB systems to produce a base lower beam at speeds below 25 mph. These slower speeds are anticipated primarily in crowded, urban environments where the current impacts of light pollution are likely the greatest. As a result, such urban environments would not experience changes in light levels produced from motor vehicles as a result of this proposal. In moderately crowded, urban environments, nighttime vehicles may travel above 25 mph, thereby engaging the ADB system. However, in those cases, upper beam use would likely be low, as the high level of other road users would cause the ADB system to rely on lower beams for visibility in order to reduce glare for other drivers. These areas may experience small increases in light pollution as the upper beams occasionally engage, as well as increased illumination associated with lower beam shaping by the ADB system. In rural areas, where traffic levels are lower and driving speeds may be higher, the use of ADB systems is anticipated to result in increased upper beam use. However, the low traffic levels would result in only moderate additional light output, and the low quantity of artificial light sources in general would mean that light pollution levels overall would be anticipated to remain low.

The proposed action is anticipated to improve visibility without glare to other drivers. In addition to the potential safety benefits associated with reduced crashes, this rule could result in fewer instances of collisions involving animals on roadways. Upper beams are used primarily for distance illumination when not meeting or closely following another vehicle. Increased upper beam use in poorly lit environments, such as rural roadways, may allow drivers increased time to identify roadway hazards (such as animals) and to stop, slow down, or avoid a collision.

In addition, the impact of added artificial light on wildlife located near roadways would depend on where and how long the additional illumination occurs, whether or not wildlife is present within a distance to detect the light, and the sensitivity of wildlife to the illumination level of the added light. Wildlife species located near active roadways have likely acclimated to the light produced by passing vehicles, including light associated with upper beams (which would be the same under the proposal in terms of brightness, directionality, and shape as under current regulations). Any additional disruption caused by increased use of upper beams is not feasible to quantify due to the extensive number of variables associated with ADB use and wildlife.

NHTSA is unable to comparatively evaluate the potential light pollution impacts of the proposal compared to the other regulatory alternatives (ECE requirements and SAE J3069). For example, the proposal requires that the undimmed portion of the adaptive beam meet the upper beam minima and the dimmed portion of the beam meet the lower beam minima. The SAE standard does not establish minima for either condition. However, NHTSA also proposes that the undimmed portion of the beam may not exceed the upper beam maxima, whereas the SAE standard does not specify an upper beam maxima for the undimmed portion. Thus, while NHTSA proposes more stringent requirements for ADB systems, the wide variations still permitted under the proposal and the SAE standards make it difficult to compare them with any level of certainty. However, to the degree to which ABD systems would function similarly under each of those standards, the environmental impacts would be anticipated to be similar.

NHTSA seeks comment on its analysis of the potential environmental impacts of its proposal, which will be reviewed and considered in the preparation of a Final EA.

Agencies and Persons Consulted

This preamble describes the various materials, persons, and agencies consulted in the development of the proposal.

Tentative Conclusion

NHTSA has reviewed the information presented in this Draft EA and tentatively concludes that the proposed action would not contribute in a meaningful way to light pollution as compared to current conditions. Any of the impacts anticipated to result from the alternatives under consideration are not expected to rise to a level of significance that necessitates the preparation of an Environmental Impact Statement. Based on the information in this Draft EA and assuming no additional information or changed circumstances, NHTSA expects to issue a Finding of No Significant Impact (FONSI). Such a finding will not be made before careful review of all public comments received. A Final EA and a FONSI, if appropriate, will be issued as part of the final rule.

Executive Order 12988 (Civil Justice Reform)

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

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Regulatory Flexibility Act

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

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. According to 13 CFR 121.201, the Small Business Administration's size standards regulations used to define small business concerns, manufacturers of the vehicles covered by this proposed rule would fall under North American Industry Classification System (NAICS) No. 336111, *Automobile Manufacturing,*

which has a size standard of 1,000 employees or fewer.

NHTSA estimates that there are six small light vehicle manufacturers in the U.S. We estimate that there are eight headlamp manufacturers that could be impacted by a final rule. I hereby certify that if made final, this proposed rule would not have a significant economic impact on a substantial number of small entities. Most of the affected entities are not small businesses. The proposed rule, if adopted, will not establish a mandatory requirement on regulated persons.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs this Agency to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

SAE International has published a voluntary consensus standard (SAE J3069 JUN2016) for ADB systems. The foregoing sections of this document discuss in detail areas in which we follow or depart from SAE J3069.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. This rulemaking would not establish any new information collection requirements.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditures by States, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for 2013 results in $142 million (109.929/75.324 = 1.42). The assessment may be included in conjunction with other assessments, as it is here.

This proposed rule is not likely to result in expenditures by State, local or tribal governments of more than $100 million annually.

UMRA requires the Agency to select the ''least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.'' As discussed above, the Agency considered alternatives to the proposed rule. We have tentatively concluded that none of the alternatives are preferable to the alternative proposed by the NPRM. We have tentatively concluded that the requirements we are proposing today are the most cost-effective alternatives that achieve the objectives of the rule.

Plain Language

Executive Order 12866 and E.O. 13563 require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN) 2127–AL83

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

Privacy Act

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

XIII. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Please organize your comments so they appear in the same order as the topic to which they respond appears in the preamble. Please number comments as they are numbered in the preamble. For example, a comment concerning the placement of the photometer on an oncoming vehicle might be labeled ''VIII.b.ii.3.a—Photometer Placement for Oncoming Vehicles,'' or ''VIII.b.ii.3—Photometer Placement.''

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may also be submitted to the docket electronically by logging onto the Docket website at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note pursuant to the Data Quality Act, for substantive data to be relied upon and used by the Agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.*

How can I be sure that my comments were received?

If you wish the Docket to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the Docket will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the docket at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note: Even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See *www.regulations.gov* for more information.

XIV. Appendix A to Preamble—Road Illumination and Pedestrian/Cyclist Fatalities

The Agency examined crash risk that could reasonably be linked to vehicle headlighting to demonstrate the safety issue which ADB optional equipment could potentially impact. We explored the correlations between pedestrian and cyclist fatalities (FARS 2006–2016 data) and light conditions, as well as the correlations between pedestrian and cyclist injuries (GES 2006–2016 data) and light conditions. Then the ratios of pedestrian/cyclist fatalities over injuries were also examined. The Agency tentatively believes that a higher ratio of fatalities to injuries demonstrates among potential other influences, driver recognition and attempts to avoid these crashes. The basic concept is that limited visibility can result in late reactions and deadly crashes.

The following tables indicate combined pedestrian and cyclist fatalities, associated with light vehicle (<=10,000 lbs.) crashes only and in ''all areas'' (rural, urban, and others), decreased from 4,755 in 2006 to the lowest number of 4,130 in 2009, but the fatalities increased steadily from 2009 to the highest number of 5,912 in 2016. In particular, there was an increase of 7.1% from 2015 to 2016 in pedestrian and cyclist fatalities.

TABLE A.1—LIGHT CONDITION PEDESTRIAN/CYCLIST FATALITIES FROM FARS 2006–2016

[Light vehicle types <=10,000 lbs.]

Year	Day light	Dark	Dark but lighted	Dawn	Dust	Dark & ukn. light	Others	Not-rept.	Unknown	Total fatalities
2006	1,386	1,561	1,571	92	128	0	0	0	17	4,755
2007	1,433	1,472	1,495	66	98	0	0	0	18	4,582
2008	1,285	1,425	1,463	79	122	0	0	0	13	4,387
2009	1,252	1,199	1,463	71	97	39	0	0	9	4,130
2010	1,254	1,321	1,483	77	84	45	5	2	5	4,276
2011	1,247	1,402	1,569	57	113	35	4	3	8	4,438
2012	1,335	1,589	1,726	79	105	29	2	3	6	4,874
2013	1,336	1,532	1,641	74	113	25	1	5	7	4,734
2014	1,393	1,615	1,697	90	111	25	4	2	10	4,947
2015	1,453	1,789	1,973	91	135	67	2	3	6	5,519
2016	1,499	1,905	2,183	88	138	72	2	3	22	5,912
Total	14,873	16,810	18,264	864	1,244	337	20	21	121	52,554

In addition to the fatality data, GES 2006–2016 data are used to explore how many pedestrians and cyclists were injured (*e.g.,* 'severity' not equal zero) under various light conditions. With both FARS and GES data, we are then able to calculate the ratio of 'fatalities over injuries' (Fatality Rate) under various light conditions, to compare the relative fatality rates (%) under various light conditions.

TABLE A.2—GES 2006–2016 WEIGHTED INJURED PEDESTRIAN/CYCLISTS

[Light vehicle types <=10,000 lbs. only]

Year	Day light	Dark	Dark but lighted	Dawn	Dust	Dark & ukn. light	Others	Not-rept.	Unknown	Total injuries
2006	67,100	9,288	22,531	1,582	4,333	0	0	0	1,471	106,305
2007	71,729	8,285	28,216	1,404	4,010	0	0	0	736	114,379
2008	84,521	8,889	22,009	1,606	3,179	0	0	0	1,209	121,414
2009	73,771	8,037	24,157	1,588	2,935	1,376	20	0	260	112,142

TABLE A.2—GES 2006–2016 WEIGHTED INJURED PEDESTRIAN/CYCLISTS—Continued

[Light vehicle types <=10,000 lbs. only]

Year	Day light	Dark	Dark but lighted	Dawn	Dust	Dark & ukn. light	Others	Not-rept.	Unknown	Total injuries
2010	84,670	6,359	25,808	2,946	4,400	537	0	106	99	124,925
2011	80,876	7,344	27,996	2,056	3,373	292	0	436	379	122,753
2012	80,933	8,864	33,913	707	4,192	499	12	377	81	129,579
2013	74,277	8,305	28,805	960	4,181	457	15	47	116	117,161
2014	77,258	8,901	28,520	1,326	4,604	347	11	293	54	121,316
2015	76,817	9,074	27,223	1,627	3,268	602	15	401	73	119,099
2016	96,861	12,922	34,791	2,361	4,549	1,378	0	406	287	153,556
Total	868,813	96,267	303,969	18,163	43,024	5,488	73	2,065	4,766	1,342,629

From the previous fatalities and injuries tables, the following table provides ratios of fatalities over injuries (fatality rates) under various light conditions. 'Dark' condition resulted in the highest fatality rate. In other words, the following table provides the probability or risk of pedestrian/cyclist fatality under certain light condition when a crash occurred, which could further lead to the relative risk (RR) comparison of two different light conditions.

Table A.3

Fatalities over Injuries Ratios of Pedestrians/Cyclists

(FARS 2006-16, and all injuries: GES 2006-16)

Counts	Day Light	Dark	Dark but Lighted	Dawn	Dusk	Dark & unkn. light	Other	Not-report	Unknown	Total Fatalities
Fatalities (FARS)	14,873	16,810	18,264	864	1,244	337	20	21	121	52,554
Injuries (GES)	868,813	96,267	303,969	18,163	43,024	5,488	73	2,065	4,766	1,342,629
Ratio of (fatalities /injuries)	1.71%	17.46%	6.00%	4.76%	2.89%	6.14%	27.40%	1.02%	2.54%	3.91%

These tables indicate that there are 16,810 pedestrian and cyclist fatalities under 'Dark' condition (FARS 2006–16); under the same condition, GES data (2006–2015) indicate there are 96,267 injured pedestrians/cyclists. The fatality rate, *e.g.,* fatalities/injured persons = 17.46% ('Dark' condition). Similarly, there are 18,264 pedestrian and cyclist fatalities under 'Dark but Lighted' condition and 303,969 injured pedestrians and cyclists, which resulting in a ratio of 6.00% (in ''Dark but lighted'' condition).

The Agency first noted the trend within these unfiltered ratios seeming to indicate the possible relationship between the amount of light available to a driver and the fatality risk to pedestrians and cyclists. That is to say, if we examine fatalities rates for 'Daylight' (1.71%), 'Dark but lighted' (6.00%), and 'Dark' (17.46%), and assume these represent decreasing visibility, we note there appears to be an inverse relationship between the amount of light available and the odds for a pedestrian or cyclist being killed if a crash occurs.

However, light condition may not be the only risk factor contributing to the pedestrian/cyclist fatality rate but many other confounding factors may simultaneously contribute to different fatality rates under different light conditions. Other confounding factors may include driver or pedestrian behaviors, vehicle type, travel speed, road condition, driver drinking status, rural/urban difference, EMS, person age/health condition, and more. The next table examines a similar fatality rate comparison made by focusing on a smaller target population of 'non-

drinking' crashes only because it is likely light condition and drunk driving are themselves related.

TABLE A.4—PEDESTRIAN/CYCLIST FATALITIES INCLUDING 'DRIVER NOT DRINKING' CRASHES ONLY

[Light VEH <=10,000 lbs, FARS 2006–16]

Year	Day light	Dark	Dark but lighted
2006	1,302	1,369	1,335
2007	1,351	1,294	1,267
2008	1,200	1,250	1,263
2009	1,167	1,050	1,257
2010	1,194	1,180	1,265
2011	1,162	1,245	1,336
2012	1,256	1,431	1,493
2013	1,254	1,378	1,439
2014	1,305	1,474	1,472
2015	1,372	1,642	1,762
2016	1,413	1,752	1,936
Total	13,976	15,065	15,825

TABLE A.5—PEDESTRIAN/CYCLIST INJURIES (INJ_SEV NOT ZERO) INCLUDING 'DRIVER NOT-DRINKING CRASHES' ONLY

[Light veh. <=10, 000 lbs. and GES 2006–16]

Year	Day light	Dark	Dark but lighted
2006	63,535	7,929	19,083
2007	69,553	7,479	26,293
2008	81,003	8,161	19,560
2009	71,870	7,184	22,758
2010	84,006	6,144	24,672
2011	79,471	7,088	26,387
2012	79,724	8,519	32,113
2013	72,970	7,811	25,655
2014	76,201	8,533	27,474

TABLE A.5—PEDESTRIAN/CYCLIST INJURIES (INJ_SEV NOT ZERO) INCLUDING 'DRIVER NOT-DRINKING CRASHES' ONLY—Continued

[Light veh. <=10, 000 lbs. and GES 2006–16]

Year	Day light	Dark	Dark but lighted
2015	75,831	8,558	26,409
2016	95,226	11,915	33,339
Total	849,390	89,321	283,743

TABLE A.6—RATIOS OF PEDESTRIAN/CYCLIST FATALITIES OVER INJURIES INCLUDING 'NOT-DRINKING DRIVER' CRASHES ONLY DURING 2006–2016 AND LIGHT VEHICLES <=10,000 LBS.

Year	Day light	Dark	Dark but lighted
Fatalities	13,976	15,065	15,825
Injuries	849,390	89,321	283,743
Ratio of (fatalities/injuries)	1.65%	16.87%	5.58%

In examining previous tables, we note the trend demonstrating an inverse relationship between light and the fatality risk for pedestrians continues for crashes not involving alcohol. If our hypothesis considering long distance visibility contributes to the fatality risk to pedestrians and cyclists, then we should also expect a relationship between speed, light, and fatality risk. That is to say, we would expect that at low speeds, a driver may be more likely to react in time to overcome limited visibility and mitigate crash severity but less likely to be able to reduce crash severity at higher speeds. The following analysis considers both speed limit and light condition.

Correlations between the pedestrian/cyclist fatal probability and risk factors could be described by the following equation, where 'p' stands for the probability of 'pedestrian/cyclist fatality', '1-p' stands for the probability of 'pedestrian/cyclist non-fatality', and 'p/(1-p)' is the 'odds' of the crash resulting in 'pedestrian/cyclist fatality' versus 'pedestrian/cyclist non-fatality'. We conducted a multiple logistic model that included 'light condition', 'speed limit' and 'drinking' into the consideration simultaneously. The logit model provides the odds ratio (OR) of two different crash conditions associated with each predictor variable, such as comparing the better light condition with darker light condition; comparing higher speed limit (+5 MPH) with next lower speed limit; and comparing the alcohol involved crash with not-alcohol involved crash. The OR value of larger than 1.0 indicates the higher chance of pedestrian/cyclist fatality while less than 1.0 for lower chance of pedestrian fatality. The model treats pedestrian/cyclist fatal crash as 'outcome', in which FARS 2006–2016 fatalities and GES 2006–16 injuries are used.

$$\frac{p}{1-p} = \exp(\beta_0 + \beta_1 LightCondition + \beta_2 SpeedLimit + \beta_3 Drinking)$$

Or, the probability of pedestrian/cyclist fatality is expressed by:

$$p = \frac{\exp(\beta_0 + \beta_1 LightCondition + \beta_2 SpeedLimit + \beta_3 Drinking)}{1 + \exp(\beta_0 + \beta_1 LightCondition + \beta_2 SpeedLimit + \beta_3 Drinking)}$$

TABLE A.7—PEDESTRIAN/CYCLIST FATALITY ODDS RATIOS FROM LIGHT CONDITION AND SPEED LIMIT

Comparison between two different light conditions	Odds ratio (OR) point estimate	95% OR confidence lower	95% OR confidence upper	P-value
'dawn or dust' vs. 'day light'	1.930	1.781	2.092	<0.0001
'dark but lighted' vs. 'day light'	2.711	2.596	2.830	<0.0001
'dark' vs 'day light'	5.004	4.807	5.209	<0.0001
higher speed limit (5 MPH)	1.512	1.490	1.534	<0.0001
Drinking versus NOT	1.965	1.849	2.087	<0.0001

ANALYSIS OF MAXIMUM LIKELIHOOD ESTIMATES AND PARAMETER ESTIMATE OF EQ.

Comparison between two different light conditions	Parameter estimate (β_i)	Standard error	Wald chi-sqare	P-value
intercept	−2.8634	0.0295	9397.9	<0.0001

ANALYSIS OF MAXIMUM LIKELIHOOD ESTIMATES AND PARAMETER ESTIMATE OF EQ.—Continued

Comparison between two different light conditions	Parameter estimate (β_i)	Standard error	Wald chi-sqare	P-value
'dawn or dust' vs. 'day'	−0.586	0.0292	29.4	<0.0001
'dark but lighted' vs. 'day'	0.1809	0.0157	132.1	<0.0001
'dark' vs 'day'	0.7940	0.0147	2904.1	<0.0001
higher speed limit (5 MPH)	0.4133	0.00734	3174.6	<0.0001
'Drinking' vs 'not-drinking'	0.6753	0.0309	477.97	<0.0001

When fatality chances under two different light conditions are compared, the pedestrian/cyclist fatality chance under 'dawn or dusk' condition is 2 times the fatality chance under 'day light' condition (OR = 1.93); similarly, the pedestrian/cyclist fatality chance under 'dark' condition is 5 times the fatality chance under 'day light' (OR = 5.00); the fatality chance under 'dark' condition is 1.87 times (5.00/2.7 = 1.85) the fatality chance under 'dark but lighted' condition, or in other words, the fatality chance under 'dark but lighted' condition is approximately 54% (2.70/5.00 = 0.53) of the fatality chance of 'dark' condition. This analysis seems to indicate an improvement of light conditions could be helpful for improving and reducing fatality probability. With a higher speed limit (+5 MPH), the pedestrian/cyclist fatality chance is 51% higher (OR = 1.51) approximately. Drinking may result in 2.0 times fatality rate.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Rubber and rubber products.

Proposed Regulatory Text

In consideration of the foregoing, 49 CFR part 571 is proposed to be amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

■ 2. Amend § 571.108 by:
■ a. Revising paragraphs S9.4.1, S9.4.1.1, S9.4.1.2, S9.4.1.3, S9.4.1.4, and S9.4.1.5;
■ b. Adding paragraphs S9.4.1.5.1 through S9.4.1.5.3 in numerical order;
■ c. Revising paragraph S9.4.1.6;
■ d. Adding paragrpahs S9.4.1.6.1 through S9.4.1.6.8 in numerical order;
■ e. Removing S9.4.1.7;
■ f. Revising paragraph S9.5;
■ g. Adding paragraphs S14.9.3.12 through S14.9.3.12.8.1, tables XIX–d and XXI, and figures 23 through 25 in numerical order; and
■ h. Removing the appendix to the section.

The revisions and additions read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S9.4.1 *Semiautomatic headlamp beam switching devices.* As an alternative to S9.4, a vehicle may be equipped with a semiautomatic means of switching between lower and upper beams that complies with 9.4.1.1 though S9.4.1.4 and either 9.4.1.5 or 9.4.1.6.

S9.4.1.1 *Operating instructions.* Each semiautomatic headlamp switching device must include operating instruction to permit a driver to operate the device correctly including; how to turn the automatic control on and off, how to adjust the provided sensitivity control, and any other specific instructions applicable to the particular device.

S9.4.1.2 *Manual override.* The device must include a means convenient to the driver for switching to the opposite beam from the one provided.

S9.4.1.3 *Fail safe operation.* A failure of the automatic control portion of the device must not result in the loss of manual operation of both upper and lower beams.

S9.4.1.4 *Automatic dimming indicator.* There must be a convenient means of informing the driver when the device is controlling the headlamps automatically. For systems certified to Option 1, the device shall not affect the function of the upper beam indicator light.

S9.4.1.5—*Option 1 (Semiautomatic Headlamp Beam Switching Devices)*

S9.4.1.5.1 *Lens accessibility.* The device lens must be accessible for cleaning when the device is installed on a vehicle.

S9.4.1.5.2 *Mounting height.* The center of the device lens must be mounted no less than 24 in. above the road surface.

S9.4.1.5.3 *Physical tests.* Each semiautomatic headlamp beam switching device must be designed to conform to all applicable performance requirements of S14.9.

S9.4.1.6—*Option 2 (Adaptive Driving Beam Systems).*

S9.4.1.6.1 The system must be capable of detecting system malfunctions (including but not limited to sensor obstruction).

S9.4.1.6.2 The system must notify the driver of a malfunction. If the ADB system detects a fault, it must disable the ADB system and the lighting system shall work in manual mode until the fault is corrected.

S9.4.1.6.3 The system must be designed to conform to the photometry requirements of Table XIX–d when tested according to the procedure of S14.9.3.12, and, for replaceable bulb headlighting systems, when using any replaceable light source designated for use in the system under test.

S9.4.1.6.4 When the system is producing an upper beam, the system must be designed to conform to the photometry requirements of Table XVIII as specified in Table II for the specific headlamp unit and aiming method, when tested according to the procedure of S14.2.5, and, for replaceable bulb headlighting systems, when using any replaceable light source designated for use in the system under test.

S9.4.1.6.5 For vehicle speeds below 25 mph, the system must produce a lower beam (unless overridden by the manual operator according to S9.4.1.1) designed to conform to the photometric intensity requires of Table XIX–a, XIX–b, or XIX–c as specified in Table II for the specific headlamp unit and aiming method, when tested according to the procedure of S14.2.5, and, for replaceable bulb headlighting systems, when using any replaceable light source designated for use in the system under test.

S9.4.1.6.6 When the system is producing a lower beam with an area of reduced light intensity designed to be directed towards oncoming or preceding vehicles, and an area of unreduced intensity in other directions, the system must be designed to conform to the photometric intensity requirements of Table XIX–a, XIX–b, or XIX–c as

specified in Table II for the specific headlamp unit and aiming method, when tested according to the procedure of S14.2.5, and, for replaceable bulb headlighting systems, when using any replaceable light source designated for use in the system under test, within the area of reduced intensity.

S9.4.1.6.7 When the system is producing a lower beam with an area of reduced light intensity designed to be directed towards oncoming or preceding vehicles, and an area of unreduced intensity in other directions, the system must be designed to conform to the photometric intensity requirements of Table XVIII as specified in Table II for the specific headlamp unit and aiming method, when tested according to the procedure of S14.2.5, and, for replaceable bulb headlighting systems, when using any replaceable light source designated for use in the system under test, within the area of unreduced intensity.

S9.4.1.6.8 When the ADB system is activated, the lower beam may be provided by any combination of headlamps or light sources, provided there is a parking lamp. If parking lamps meeting the requirements of this standard are not installed, the ADB system may be provided using any combination of headlamps but must include the outermost installed headlamps to show the overall width of the vehicle.

* * * * *

S9.5 *Upper beam headlamp indicator.* Each vehicle must have a means for indicating to the driver when the upper beams of the headlighting system are activated. The upper beam headlamp indicator is not required to be activated when an Adaptive Driving Beam System is activated.

* * * * *

S14.9.3.12 *Test for compliance with adaptive driving beam photometry requirements.*

S14.9.3.12.1 *Stimulus Vehicles.* There shall be one stimulus vehicle equipped with photometers to measure the light emitted by the ADB-equipped vehicle being tested (test vehicle). The stimulus vehicle may be of any of the vehicle types defined in 49 CFR 571.3 (excluding trailers, motor-driven cycles, and low-speed vehicles) and shall be certified as conforming to all applicable FMVSS, be from any of the five model years prior to the model year of the test vehicle, and be a vehicle on which it is possible to locate a photometer to measure oncoming glare as specified in S14.9.3.12.3.

S14.9.3.12.2 *Photometers.*

S14.9.3.12.2.1 The photometer must be capable of a minimum measurement unit of 0.01 lux.

S14.9.3.12.2.2 The illuminance values from the photometers shall be collected at a rate of at least 200 Hz. Multiple photometers (or photometric receptor heads) may be used provided that they satisfy the requirements of S14.9.3.12.3.

S14.9.3.12.3 *Photometer Placement.* The photometers are placed in positions that are free from shadows and reflections from the stimulus vehicle's surface during the test.

S14.9.3.12.3.1 The photometer is oriented such that the plane in which the aperture of the meter resides is perpendicular to the longitudinal axis of the stimulus vehicle and facing forward or rearward according to the test.

S14.9.3.12.3.2 *Placement of photometers to measure glare to oncoming vehicles.*

S14.9.3.12.3.2.1 *Longitudinal position.* The photometer shall be positioned outside the vehicle, forward of the windshield and rearward of the headlamps.

S14.9.3.12.3.2.2 *Lateral position.* The photometer shall be positioned between and including the vehicle longitudinal centerline over to the driver's side A-pillar.

S14.9.3.12.3.2.3 *Vertical position.* The photometer shall be positioned between the bottom of the windshield and the top of the windshield subject to the lower and upper bounds specified in Table XXI.

S14.9.3.12.3.2.4 If it is not possible to so position the photometer, the vehicle is not eligible as a stimulus vehicle.

S14.9.3.12.3.3 *Placement of photometers to measure glare to preceding vehicles.* Photometers may be positioned at any location on the driver's side outside rearview mirror and/or the passenger's side outside rearview mirror, and/or outside the vehicle, directly outside the rear window, horizontally and vertically centered with respect to the inside rearview mirror.

S14.9.3.12.4 *Test road.*

S14.9.3.12.4.1 *Test Scenario Geometry.* Test scenarios shall involve straight roads and curved roads.

ADB TEST MATRIX

Test matrix No.	Stimulus vehicle speed (mph)	Test vehicle speed (mph)	Radius of curve (ft.)	Superelevation (%)
1	60–70	60–70	Straight	0–2
2	0	60–70	Straight	0–2
3	40–45	60–70	Straight	0–2
4	60–70	40–45	Straight	0–2
5	25–30	25–30	320–380	0–2
6	0	25–30	320–380	0–2
7	40–45	40–45	730–790	0–2
8	0	40–45	730–790	0–2
9	30–35	40–45	730–790	0–2
10	40–45	30–35	730–790	0–2
11	50–55	50–55	1,100–1,300	0–2
12	50–55	40–45	1,100–1,300	0–2
13	40–45	50–55	1,100–1,300	0–2

S14.9.3.12.4.2 The curves shall be of a constant radius within the range listed in the ADB test matrix table.

S14.9.3.12.4.3 The test road shall have a longitudinal grade (slope) that does not exceed 2%.

S14.9.3.12.4.4 The lane width shall be from 3.05 m (10 ft.) to 3.66 m (12 ft.)

S14.9.3.12.4.6 The lanes shall be adjacent, but may have a median of up to 6.1 m (20 ft.) wide, and shall not have any barrier taller than 0.3 m (12 in.) less than the mounting height of the stimulus vehicle's headlamps.

S14.9.3.12.4.7 The tests are conducted on a dry, uniform, solid-paved surface. The road surface shall

have an International Roughness Index (IRI) of less than 1.5 m/km.

S14.9.3.12.4.8 The road surface may be concrete or asphalt, and shall not be bright white.

S14.9.3.12.4.9 The test road surface may have pavement markings, and shall be free of retroreflective material or elements that affect the outcome of the test.

S14.9.3.12.5 *Test Scenarios.*

S14.9.3.12.5.1 The scenarios specified in the table below, and as illustrated in Figures 23, 24, and 25, may be tested:

ADB TEST ORIENTATION

Direction	Lane orientation/maneuver	Test matrix No.	Measurement distance (m)
Oncoming	Adjacent	1, 2, 5, 6, 7, 8, 11	15 to 220.
Same Direction	Same Lane	1, 5, 7, 11	30 to 119.9.
Same Direction	Adjacent/Passing	2, 3, 6, 8, 9, 13	15 to 119.9.
Same Direction	Adjacent/Passing	4, 10, 12	30 to 119.9.

S14.9.3.12.5.2 For each of the test runs that include a passing maneuver, the faster vehicle will be located in the left adjacent lane throughout the test run (See Fig. 25).

S14.9.3.12.5.3 For each of the test runs that include a curve, the test vehicle must meet the compliance criteria specified in S14.9.3.12.8 anywhere along the curve.

S14.9.3.12.5.4 The measurement distance is the linear distance measured from the intersection of a horizontal plane through the headlamp light sources, a vertical plane through the headlamp light sources and a vertical plane through the vehicle's centerline to the forward most point of the relevant photometric receptor head mounted on the stimulus vehicle.

S14.9.3.12.6 *Test conditions.*

S14.9.3.12.6.1 Testing shall be conducted on dry pavement and with no precipitation.

S14.9.3.12.6.2 Testing shall be conducted only when the ambient illumination at the test road as recorded by the photometers is at or below 0.2 lux.

S14.9.3.12.7 *Test Procedures.*

S14.9.3.12.7.1 *Vehicle preparation.*

S14.9.3.12.7.1.1 Tires on the stimulus and the test vehicles are inflated to the manufacturer's recommended cold inflation pressure ±6895 pascal (1 psi). If more than one recommendation is provided, the tires are inflated to the lightly loaded condition.

S14.9.3.12.7.1.2 The fuel tanks of the stimulus and the test vehicles are filled to approximately 100% of capacity with the appropriate fuel and maintained to at least 75% percent capacity throughout the testing.

S14.9.3.12.7.1.3 Headlamps on the stimulus and test vehicles shall be aimed according to the manufacturer's instructions.

S14.9.3.12.7.1.4 The ADB system shall be adjusted according to the manufacturer's instructions.

S14.9.3.12.7.1.5 To the extent practicable, ADB sensors and the windshield on the test vehicle (if an ADB sensor is behind the windshield) shall be clean and free of dirt and debris.

S14.9.3.12.7.1.6 The headlamps lenses of the stimulus vehicle and the test vehicles shall be clean and free from dirt and debris.

S14.9.3.12.7.2 Prior to the start of each test, the photometers will be zeroed in the orientation (with respect to the surroundings) in which the test scenario will be conducted. For tests conducted on curves with ambient light sources such as the moon or infrastructure lighting that cannot be eliminated, the photometers will be zeroed in the direction of maximum ambient light. The vehicle lighting on the stimulus vehicle shall be in the same state as it will be during the test.

S14.9.3.12.7.3 The ADB system shall be activated according to the manufacturer's instructions.

S14.9.3.12.7.4 For each test run, a speed that conforms to the ADB test matrix table will be selected for each vehicle. The vehicle will achieve this speed ±0.45 m/s (1 mph) prior to reaching the data measurement distance specified in the ADB test orientation table and maintain it within the range specified in the test matrix table throughout the remainder of the test. During each test run, once the test speed is achieved and maintained, no sudden acceleration or braking shall occur.

S14.9.3.12.7.5 All vehicles shall be driven within the lane and will not change lanes during the data collection potion of the test.

S14.9.3.12.7.6 The illuminance values for each photometer and the measurement distance shall be recorded and synchronized.

S14.9.3.12.8 *Compliance Criteria.* The maximum illuminance, as calculated according to S14.9.3.12.8.1, shall not exceed the applicable maximum illuminance values in Table XIX–d.

S14.9.3.12.8.1 The maximum illuminance will be the single highest illuminance recorded within the distance range excluding momentary spikes above the limits lasting no longer than 0.1 sec. or over a distance range of no longer that 1 meter.

* * * * *

TABLE XIX–d—ADAPTIVE DRIVING BEAM PHOTOMETRY REQUIREMENTS [1]

Range (m)	Maximum illuminance oncoming direction (lux)	Maximum illuminance same direction (lux)
15.0 to 29.9	3.1	18.9
30.0 to 59.9	1.8	18.9
60 to 119.9	0.6	4.0
120 to 220	0.3	4.0

[1] For purposes of determining conformance with these specifications, an observed value or a calculated value shall be rounded to the nearest 0.1 lux, in accordance with the rounding method of ASTM Practice E29 Using Significant Digits in Test Data to Determine Conformance with Specifications.

* * * * *

TABLE XXI—VERTICAL POSITION RANGES FOR PHOTOMETER USED TO MEASURE ONCOMING GLARE

Vehicle type (weight class)	Lower bound (m)	Upper bound (m)
Passenger Cars	1.07	1.15
Trucks, buses, MPVs (light)	1.26	1.58
Trucks, buses, MPVs (heavy)	1.99	2.67
Motorcycles	1.30	1.66

"Light" means vehicles with a GVWR of 10,000 lb. or less. "Heavy" means vehicles with a GVWR of more than 10,000 lb.

Heights are measured from the ground.

* * * * *

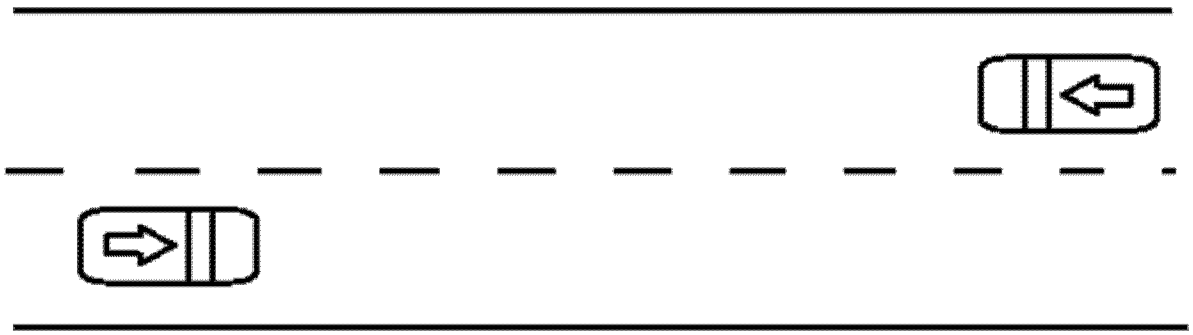

Figure 23

Adjacent Lane Oncoming

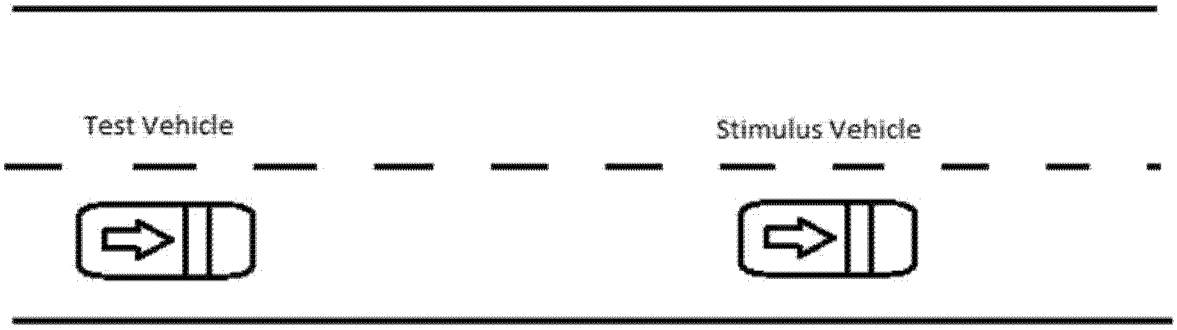

Figure 24

Same Lane / Same Direction

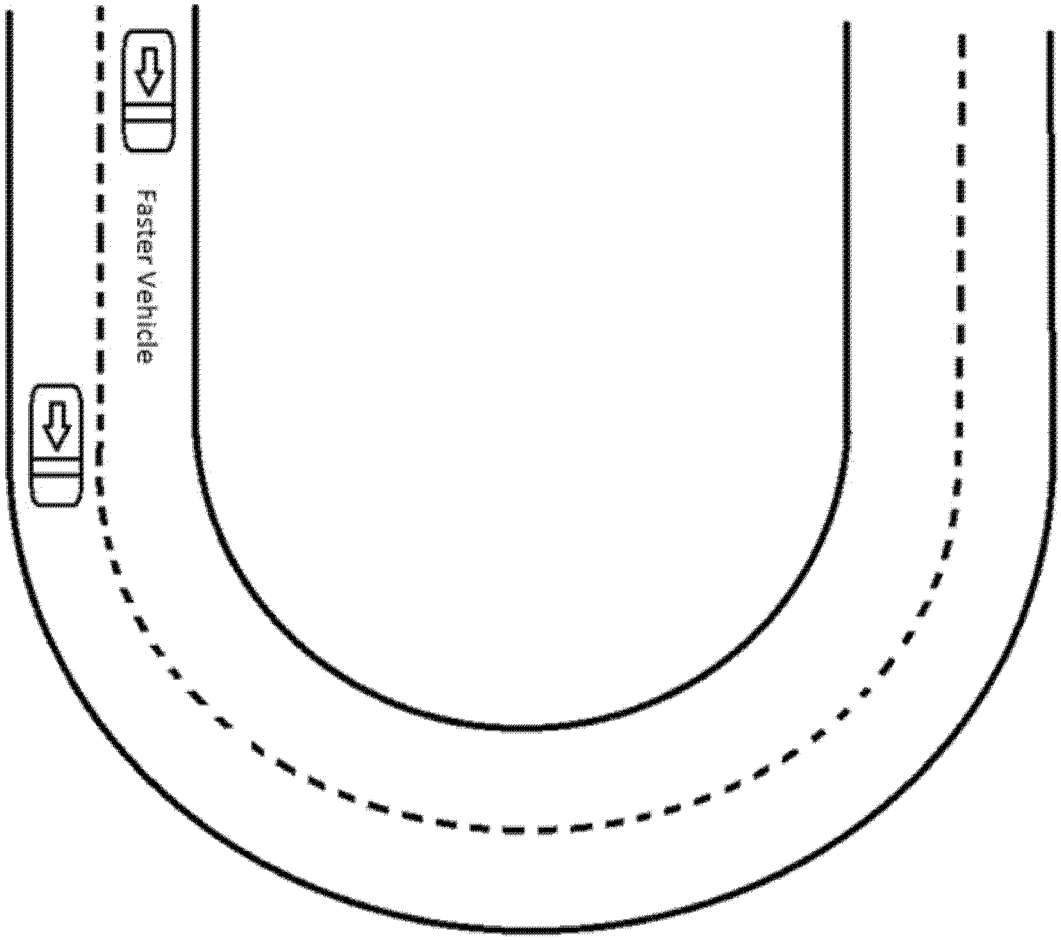

Figure 25

Adjacent Lane - Same Direction – Passing

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

Heidi Renate King,

Deputy Administrator.

[FR Doc. 2018–21853 Filed 10–11–18; 8:45 am]

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