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FEDERAL TRADE COMMISSION

16 CFR Part 429

RIN 3084–AB10

Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends the Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (''Cooling-Off Rule'' or ''Rule''). The final Rule adopts with modifications the Commission's proposal to increase the exclusionary limit for all door-to-door sales. Under the final Rule, the revised definition of ''door-to-door sale'' distinguishes between sales at a buyer's residence and those at other locations. First, the revised definition retains coverage for sales made at a buyer's residence that have a purchase price of $25 or more. Second, the revised definition covers sales at other locations that have a purchase price of $130 or more.

DATES: This rule is effective on March 13, 2015.

ADDRESSES: Requests for copies of this document are available on the Commission's Web site, *www.ftc.gov*.

FOR FURTHER INFORMATION CONTACT: Sana Coleman Chriss, Attorney, (404) 656–1364, Federal Trade Commission, Southeast Region, 225 Peachtree Street NE., Suite 1500, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION:

I. Background

A. Cooling-Off Rule Summary

The Cooling-Off Rule is a trade regulation rule that was promulgated by the Commission in 1972 to address unfair and deceptive practices in sales conducted at locations other than the place of business of the seller (''door-to-door sales''). In addition to sales at consumers' homes, door-to-door sales include sales at facilities rented on a temporary or short term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants; or sales at the buyer's workplace or in dormitory lounges. The Rule requires door-to-door sellers to provide consumers with written and oral notice of a buyer's right to unilaterally rescind a contract within three business days from the date of the transaction.[1] Additionally, such sellers must provide buyers with a completed receipt, or a copy of the sales contract, containing a summary notice informing buyers of the right to cancel the transaction.[2]

B. Procedural Background

In 2009, the Commission initiated a regulatory review of the Cooling-Off Rule, as it does periodically with all of its rules and guides, to determine whether the Rule should be retained, modified or rescinded.[3] To make this determination, the Commission sought comment on the economic impact of the Rule, the need for the Rule, any possible conflicts between the Rule and state, local, or other federal laws or regulations, and the effect on the Rule of any technological, economic, or other industry changes. Finding that the Rule continues to serve a valuable purpose in protecting consumers, the Commission retained the Rule and concluded its regulatory review.[4] At the same time, the Commission sought public comment on a proposed increase from $25 to $130 in the exclusionary limit set forth in the Definitions section of the Rule.[5] Under the proposed revision, the Rule's definition would have covered door-to-door sales with a purchase price of $130 or more.

In seeking comment, the Commission posed six questions: (1) Whether the Rule's $25 exclusionary limit should be increased to account for inflation since the Rule was first promulgated in 1972 and to exempt from the Rule's coverage sales, leases, or rentals of consumer goods or services with a purchase price of less than $130, whether under single or multiple contracts; (2) what types of transactions would become exempt from the Rule as a consequence of the increase; (3) whether transactions intended to be covered by the Rule when originally adopted in 1972 would become exempt as a result of the increase; (4) how the increase would impact the benefits the Rule currently provides to consumers and commerce; (5) how the increase would impact the burdens or costs the Rule currently imposes on sellers subject to the Rule's requirements; and (6) whether the increase would impact the enforcement of state laws and municipal ordinances.[6]

After careful consideration of the record, the Commission has decided to retain the exclusionary limit of $25 for door-to-door sales made at a buyer's residence, but amend the Rule to increase from $25 to $130 the exclusionary limit applicable to all other door-to-door sales made at a place other than a buyer's residence.

II. Basis for Final Rule and Analysis of Public Comment

The Commission received a total of 33 public comments from a broad range of groups and individuals.[7] Commenters included representatives from Better Business Bureaus (''BBBs''); the California Consumer Affairs Association (''CCAA''), which is a statewide association of government agencies and nonprofit organizations; the Attorney General of the Commonwealth of Massachusetts (the ''Massachusetts AG''); the Direct Selling Association (''DSA''), which is a trade association of

[1] Door-to-door sellers must provide buyers with a completed cancellation form, in duplicate, captioned either Notice of Right to Cancel or Notice of Cancellation, in accordance with the requirements and language provided in 16 CFR 429.1(b). Duplicate copies are required so that consumers can return one notice and retain the other should they need to effect cancellation. Oral notice is required pursuant to 16 CFR 429.1(e).

[2] 16 CFR 429.1(a).

[3] *Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Request for Public Comment, 74 FR 18170 (April 21, 2009). The Commission also conducted reviews in 1998 and 1995. *Rule on Cooling-Off Period for Door-to-Door Sales,* 53 FR 45455 (Nov. 10, 1988); *Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* 60 FR 54180 (Oct. 20, 1995). In the 1995 proceeding, the Commission determined, among other issues, that the Rule should continue to apply to sales occurring in places other than a consumer's home. *Id.* at 54183.

[4] *Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Proposed Rule Amendment; Request for Public Comment, 78 FR 3855 (Jan. 17, 2013).

[5] *Id.*

[6] *Id.* at 3860.

[7] Comments are available on the Commission's Web site at: *www.ftc.gov.*

manufacturers and distributors that directly sell goods and services to consumers primarily in the home; and consumer advocates. The comments discussed three issues: (1) The exclusionary limit; (2) the Rule's effect on state laws; and (3) the Rule's receipt requirement and sellers' guarantee and return policies.

A. The Exclusionary Limit

The majority of commenters stated that the $25 exclusionary amount should not be increased. The most uniform concern raised by commenters opposing the increase was the risk of unfair or deceptive sales practices occurring within consumers' homes.[8] For example, comments from the Massachusetts AG indicated that $25 is not an insignificant amount, especially in the residential context, where borrowers who may never have expressed an interest in a product are confronted in their own home by a seller who attempts to convince them to purchase a product.[9] Similarly, other commenters discussed aggressive traveling sellers in consumers' neighborhoods seeking to deceptively solicit consumers within their homes.[10] A few commenters suggested that some consumers feel pressured to enter into contracts with door-to-door salesmen solely to get the salesmen to leave their homes.[11]

Several commenters expressed concern that increasing the exclusionary amount could exempt door-to-door sellers of multilevel marketing (''MLM'') distribution opportunities and sales of associated ''start-up kits'' to prospective distributors.[12] One commenter stated that these start-up kits typically cost $99 and that raising the threshold amount would exempt sale of the kits from the Rule.[13] The commenter asserted that start-up kit sales should be covered by the Rule, because the sales cause these individuals to become committed to the MLM opportunity when, in reality, most of these individuals are likely to lose their investments.[14]

A few commenters supported the proposed increase. DSA, for example, stated that increasing the exclusionary limit to $130 would be appropriate, while also noting the continuing value of the Rule.[15] DSA stated that increasing the exclusionary limit would continue to provide consumers with the right to cancel high-dollar value purchases within three days. DSA also stated that the proposed increase would reduce the burden on sellers of lower-cost items because such sellers would not be required to provide duplicate receipts and oral disclosures.

The Commission concludes that the record supports retaining the $25 exclusionary limit for door-to-door sales made within consumers' homes. The record reflects significant concern among the majority of commenters about high-pressure sales tactics and deception occurring during in-home solicitations. These concerns echo many of the same in-home sales concerns expressed by the Commission when it promulgated the Rule in 1972. The unfair and deceptive sales practices identified at that time included: (1) Deception by salesmen in getting inside the door, (2) high pressure sales tactics, (3) misrepresentation as to the quality, price, or characteristics of the product, (4) high prices for low-quality merchandise, and (5) the nuisance created by the visit to the home by the uninvited salesmen.[16] The Commission concludes that retaining the $25 exclusionary limit for in-home sales is warranted to prevent the types of unfair and deceptive practices that gave rise to the Rule, and that an inflationary adjustment with respect to in-home sales would leave consumers without adequate protection under the Rule. Accordingly, the Commission is retaining the $25 exclusionary limit for such sales.

The Commission, however, has determined to amend the Rule to increase the limit to $130 for door-to-door sales made away from consumers' residences. The record does not reflect the same level of concerns about problematic practices when sales are made at other locations. In addition, the Commission is cognizant of costs of complying with the Rule. As stated in the record, because of price increases over time, more items are now covered by the Rule.[17] This results in compliance burdens for sellers of lower cost goods. For example, while the Rule does not exempt souvenir vendors and sellers of perishable food at farmers' markets, increasing the threshold amount for sales at other locations could relieve these types of vendors from providing cancellation notices in connection with lower-dollar sales. The Commission concludes that increasing the exclusionary limit to $130 for sales made away from a consumer's residence will reduce compliance burdens for sellers of lower cost goods, while continuing to provide consumers with the Rule's protections for higher-dollar value purchases.

With respect to transactions involving MLM start-up kits, the Commission notes that whether such transactions are covered by the Rule is a fact-specific inquiry that depends on whether the particular transaction is a ''sale, lease or rental of consumer goods or services.''[18] To the extent such a transaction would be covered under the final Rule, the location of the transaction would govern whether the $25 exclusionary amount or the $130 exclusionary amount would apply.

B. The Rule's Effect on State Laws

Some commenters expressed concern about how the proposed increase would affect state cooling-off laws. DSA commented that the increase in the exclusionary limit would not impact the enforcement of state laws and municipal

[8] *See e.g.,* Massachusetts AG at 1(urging the FTC to maintain the exclusionary limit at $25 and stating that ''The Commonwealth recognizes that $25 is worth less, in real terms, than it was in 1972, when 16 CFR part 429 was enacted. Nevertheless, the Commonwealth does not believe that $25 is an insignificant amount, *especially in the door-to-door context, where borrowers who may never have expressed an interest in a product are confronted in their own home by a salesman who attempts to convince them to purchase a product.''*) (emphasis added); Halbe at 1 (describing pushy, aggressive salesmen roving through her neighborhood); BBB of Southern Colorado at 1 (inferring that consumers are threatened or deceived into signing contracts to get sales persons to leave consumers' homes); BBB of Utah at 1; BBB of North Alabama at 1 (stating that ''Door to door sales targets [sic] every homeowner who opens their door. Without a low threshold you will see more consumers loose [sic] more money to the crooks who walk through the neighborhoods.''); Ellenbecker at 1(expressing concern about deceptive travelling salesmen).

[9] Massachusetts AG at 1.

[10] BBB of North Alabama at 1; Halbe at 1; Ellenbecker at 1.

[11] BBB of Southern Colorado at 1; BBB of Utah at 1.

[12] Barrett at 1; Bosley at 1; Brooks at 2–3; Fitzpatrick (for Pyramid Scheme Alert) at 1; Taylor (for the Consumer Awareness Institute) at 1. *See also* Christian (stating that the cooling-off period for distributors should be one month instead of three days). According to DSA, a start-up kit usually includes items such as samples, catalogs, order forms and other tools that help the individual begin selling. ''The Difference Between Legitimate Direct Selling Companies and Illegal Pyramid Schemes,'' Direct Selling Association, available at *http://www.dsa.org/ethics/legitimatecompanies.pdf.*

[13] Brooks at 2 (citing information found at *http://www.dsa/org/ethics/legtimatecompanies.pdf*).

[14] *Id.* at 2–3.

[15] DSA at 2; Rothacker at 1. In addition, two other commenters provided brief statements in support of an inflationary adjustment of more than the proposed $130. Schafer at 1 (stating ''maybe $500 or $1,000 should be the threshold if it needs to stay''); Kellam at 1 (stating that ''For further consideration, the limit should be increased to $200 to allow for inflation in the next two to five years.'').

[16] *Cooling-Off Period for Door-to-Door Sales, Trade Regulations Rule and Statement of Basis and Purpose,* 37 FR 22933, 22937 (Oct. 26, 1972).

[17] DSA at 2.

[18] *See* 16 CFR 429.0(a); 429.0(b) (defining ''consumer goods or services'' as ''goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken'').

ordinances.[19] CCAA offered a different view, stating that if the Rule raises the exclusionary amount to $130, unscrupulous door-to-door sellers could challenge a state cooling-off rule law and similar statutes, although CCAA did not discuss the likely basis for any such challenges.[20]

The Commission finds that raising the threshold limit for door-to-door sales made away from a consumer's home should not adversely impact state laws. Section 429.2 of the Rule, which remains unchanged, provides that state laws are preempted only to the extent that such laws are ''directly inconsistent'' with the Rule. State laws that have either lower exclusionary limits of $25 or less, or no exclusionary limit at all, are not ''directly inconsistent'' with the Rule, and therefore would not be preempted on this ground. It is possible for sellers to comply with the Rule when they make door-to-door sales of $130 or more away from a consumer's home, and to also comply with state laws governing sales of smaller amounts.

C. Receipt Requirement and Sellers' Guarantee and Return Policies

DSA repeated a comment made during the 2009 rule review about the requirement that sellers provide consumers with two copies of the sales receipt and the mandated cancellation notice. DSA states that providing duplicate receipts imposes a burden on door-to-door sellers that is no longer necessary because orders and cancellations are frequently made over the telephone and the Internet.[21] The Commission disagrees. The duplicate receipt and notice required by the Rule is beneficial to consumers, and based on the comments provided, may even have greater significance for consumer populations that may be targeted by door-to-door sales, such as the elderly.[22] Further, the Commission notes that the Rule does not expressly address electronic methods by which a seller might comply with the Rule's duplicate receipt and notice requirement. Whether and how other laws, such as the Electronic Signatures in Global and National Commerce Act (''ESIGN''),[23] may provide electronic means that could be used to meet the duplicate receipt and notice requirement, or other Rule requirements, would depend on a case-by-case analysis of the specific legal and factual circumstances. Finally, the Rule does not apply if a transaction is conducted and consummated entirely by mail or telephone—and the Commission interprets the Rule to similarly not apply to transactions conducted and consummated entirely over the Internet—as long as there is not any other in person contact between the buyer and seller or its representative prior to the delivery of goods or the performance of services.[24]

DSA also repeated its 2009 comment that providing notice of both Cooling-Off Rule cancellation rights and a company's cancellation and return policy can be confusing to consumers when they provide for different cancellation, guarantee, or return policies.[25] DSA reiterated its recommendation that the Commission permit companies to substitute the Rule's language with their own guarantee or return policies, which policies, according to DSA, often provide consumers with greater protections than the Rule.[26] The Commission is not adopting DSA's recommendation because any potential confusion that consumers face with multiple options for cancellation is counterbalanced by the need to have a federally enforceable minimum amount of time for which consumers may cancel door-to-door sales. Without a federally required minimum, consumers' cancellation rights could be subjected to negotiation in high-pressure, deceptive door-to-door sales, which could result in more onerous cancellation and other requirements for consumers.

III. Regulatory Flexibility Act Certification and Regulatory Analysis

The final amendment to the Commission's Cooling-Off Rule announced in this notice will increase from $25 to $130 the exclusionary limit for door-to-door sales made away from a buyer's residence. Given concerns raised by commenters about problematic practices occurring within consumers' homes, the final amendment will not increase the exclusionary limit for sales made at a buyer's residence. The final amendment will reduce compliance burdens for regulated sellers who will no longer be required to provide Notices of Cancellation for door-to-door sales made away from a buyer's residence, unless the purchase price of the sale is $130 or more. Moreover, the final amendment will not impose upon any regulated sellers new notice or other requirements. As a result, the Commission believes the economic impact of the final amendment will be minimal and that it will not have an adverse economic impact on regulated sellers or consumers. As reflected in this proceeding and in the Commission's experience, door-to-door sellers are often small entities. Because the final amendment reduces compliance burdens, door-to-door sellers who are also small entities should not face any significant economic hardship as a result of the final amendment. At most, a small entity may face costs associated with training and educating sellers about the amendment to the Rule, but these costs would likely be modest and outweighed by the reduced burden for those entities that will no longer need to provide Notices of Cancellation for certain sales. Accordingly, the Commission certifies that the final amendment will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The final amendment, therefore, is exempt from the final regulatory flexibility analysis requirements of section 604, 5 U.S.C. 604.[27] Further, this document serves as notice to the Chief Counsel for Advocacy of the Small Business Administration of the agency's certification of no significant impact.

For similar reasons, a regulatory analysis under Section 22 of the FTC Act is not required. See 15 U.S.C. 57b–3(a)(1). The Commission believes the amendments will have no significant economic or other impact on the economy, prices, or regulated entities or consumers.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.,* requires government agencies, before promulgating rules or other regulations that require ''collections of information'' (*i.e.,* recordkeeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget (''OMB''). The amendment will not impose collection requirements, so OMB approval is unnecessary.

V. Conclusion

For the reasons described above, the Commission has determined to increase

[19] DSA at 3.

[20] CCAA at 1.

[21] DSA at 3.

[22] These consumer populations may be less likely to have affordable access to photocopiers and electronic devices. The duplicate receipt and notice requirement avoids imposing additional expense on consumers who would need to access copier machines and other electronic devices in order to preserve a record of their right to cancel. *See Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Proposed Rule Amendment; Request for Public Comment, 78 FR 3855, 3862 (Jan. 17, 2013).

[23] 15 U.S.C. 7001–7006.

[24] *See* 16 CFR 429.0(a)(4).

[25] DSA at 3.

[26] *Id.*

[27] 5 U.S.C. 605(b).

the Rule's exclusionary amount with respect to door-to-door sales that are made away from a buyer's residence. The Cooling-Off Rule will continue to apply to these types of transactions, however, the exclusionary limit will be increased to $130. Increasing the exclusionary limit for these types of sales should eliminate compliance burdens for various types of vendors, who typically engage in low-dollar amount transactions, but not high-pressure sales tactics that are designed to keep consumers' captive. At the same time, the record supports leaving the $25 exclusionary limit in place for door-to-door sales made within consumers' homes.

List of Subjects in 16 CFR Part 429

Sales made at homes or at certain other locations; Trade practices.

For the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR part 429 as follows:

PART 429—RULE CONCERNING COOLING-OFF PERIOD FOR SALES MADE AT HOMES AND OTHER LOCATIONS

■ 1. The authority citation for part 429 continues to read as follows:

Authority: Sections 1–23, Federal Trade Commission Act, 15 U.S.C. 41–58.

■ 2. Amend § 429.0, by revising paragraph (a) introductory text to read as follows:

§ 429.0 Definitions.

* * * * *

(a) *Door-to-Door Sale*—A sale, lease, or rental of consumer goods or services in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller (*e.g.,* sales at the buyer's residence or at facilities rented on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer's workplace or in dormitory lounges), and which has a purchase price of $25 or more if the sale is made at the buyer's residence or a purchase price of $130 or more if the sale is made at locations other than the buyer's residence, whether under single or multiple contracts. The term *door-to-door sale* does not include a transaction:

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

Note: The following will not appear in the Code of Federal Regulations:

Concurring Statement of Commissioner Julie Brill Federal Trade Commission Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (the ''Cooling-Off Rule'')

January 6, 2015

Today, the Commission announces that it has amended the Commission's Cooling-Off Rule.[1] Through this action, the Commission retains the exclusionary limit for some ''door-to-door'' sales, but raises it for others. I write separately to voice my strong support for retaining the exclusionary limit for sales in consumers' homes; to note my skepticism, based on the record before us, of the need to raise the exclusionary limit for sales in a seller's transient location; and, as a result, to strongly encourage states to engage in detailed fact finding about their own local conditions before raising any exclusionary limits under their own state cooling-off laws and rules.

The Cooling-Off Rule was designed to prevent unfair and deceptive practices in sales that occur outside a seller's permanent place of business.[2] The Cooling-Off Rule uses the nomenclature ''door-to-door'' sales to describe the sales that it covers, and includes within the definition of ''door-to-door'' sales both sales in a consumer's home as well as sales at a seller's transient location.[3] Sales in consumers' homes and at a seller's transient location have long raised consumer protection concerns, as some sellers employ deceptive and unfair practices, including high pressure sales tactics; misrepresenting the quality of goods; and placing inappropriate roadblocks to obtaining refunds, including simply disappearing before the consumer realizes that he or she has been scammed.[4] The Cooling-Off Rule's primary mechanism for protecting consumers from such unscrupulous sales tactics is to give consumers who purchase in these locations three business days to cancel sales of $25 or more.[5] Under the Cooling-Off Rule, covered sellers must provide consumers with written and oral notice of this right to cancel.[6]

The $25 exclusionary limit established in the Cooling-Off Rule has not changed since the Rule was first promulgated in 1972. In January 2013, following completion of a regulatory review of the Rule, the Commission sought public comment on a proposal to raise the exclusionary limit for all sales that qualify as ''door-to-door sales'' from $25 to $130, to account for inflation since the Rule was issued.[7] As further explained in the January 2013 **Federal Register** Notice, the Commission derived the $130 figure by calculating inflation using the U.S. Department of Labor's Consumer Price Index for all-urban consumers (''CPI–U'').[8]

The Commission received thirty-three comments in response to its proposal to raise the exclusionary limit to $130 for all ''door to door'' sales. As discussed more fully below, four commenters supported a blanket increase of the exclusionary limit to $130.[9] The vast majority of commenters—twenty-eight—opposed the proposed blanket increase to $130. These twenty-eight commenters cited a variety of reasons for their opposition. Most of them expressed general concerns about the need for protections against high pressure and predatory sales practices.[10] The

[1] *Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* 16 CFR part 429.

[2] *Id.; see also, Cooling-Off Period for Door-to-Door Sales, Trade Regulation Rule and Statement of Its Basis and Purpose,* 37 FR 22933, 22937 (Oct. 26, 1972).

[3] 16 CFR 429.0(a) (definition of ''Door-to-Door Sale'').

[4] *See Cooling-Off Period for Door to Door Sales, Trade Regulation Rule and Statement of Its Basis and Purpose,* 37 FR at 22937 (''The complaints of consumers regarding door-to-door salesmen fall within five basic headings. These are: (1) Deception by salesmen in getting inside the door; (2) high pressure sales tactics; (3) misrepresentation as to the quality, price, or characteristics of the product; (4) high prices for low-quality merchandise; and (5) the nuisance created by the visit to the home by the uninvited salesmen'').

[5] 16 CFR 429.1(a).

[6] 16 CFR 429.1(a), (b), (e).

[7] The Commission initiated the regulatory review in 2009, seeking public comment to determine whether the rule should be retained, modified, or rescinded. *Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Request for Public Comment, 74 FR 18170 (Apr. 21, 2009). After the Commission decided to retain the Rule, it sought public comment on a proposal to an increase of the exclusionary limit. *Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Proposed Rule Amendment, Request for Public Comment, 78 FR 3855 (Jan. 17, 2013).

[8] *See* 78 FR at 3869, n.69 (''The average value of the CPI–U for 2010 was 218.056, while the average value for 1972 was 41.8. . . . Dividing 218.056 by 41.8 gives a value of 5.217 and multiplying this figure by $25 gives a value of $130.43. Rounding down to $130 yields the proposed new minimum dollar amount'').

[9] The Direct Selling Association (''DSA'') and Mike Shaw Auto Group, as well as two individual commenters supported an increase in the exclusionary limit. DSA stated that, because of inflation, the Rule now covers lower cost items that it was not originally intended to cover. It also cited concerns regarding the compliance costs for sellers of lower cost goods. DSA Comment at 2–3. Mike Shaw Auto Group suggested that the amount be rounded up to the nearest $50. Mike Shaw Auto Group Comment at 1. Another commenter suggested that the amount be raised to $200 to account for future inflation, while the remaining commenter expressed support for the FTC's proposed increase. BELO KELLAM [sic] Comment at 1, Susan Rothacker Comment at 1.

[10] Some commenters raised general concerns about deceptive practices. *See, e.g.,* Frances Goff Comment at 1 (opposed to raising the minimum based on the persistence of dishonest sales tactics). Others raised more specific concerns, such as sellers who target senior citizens, or predatory sales practices in multilevel marketing. Six commenters raised concerns with multilevel marketing organizations (''MLMs''), whose start-up kits can easily cost below the FTC's proposed threshold. For example, Stacie Bosley, an economist and assistant

Massachusetts Attorney General, the California Consumer Affairs Association, and several chapters of the Better Business Bureau (''BBB'') cited serious concerns about deceptive and high pressure sales tactics by traveling salespeople for transactions well under $130.[11] Some commenters stated that, while the price of goods and services may have risen with inflation, $25 is still a significant amount of money for consumers.[12]

After consideration of commenters' concerns, the Commission today has decided to (1) retain the $25 limit for door-to-door sales made at a buyer's residence, and (2) amend the Rule to increase the limit from $25 to $130 for sales that occur at transient locations.

I fully support the retention of the $25 exclusionary limit for sales in consumers' homes. While the expansion of Internet marketing has changed the business model of many direct sales companies, door-to-door sales continue to be a concern, especially for consumers who are the targets of aggressive, high pressure, or deceptive sales tactics in their own homes. AARP and the BBB have identified in-home door-to-door sales as being among the top scams targeting senior citizens.[13] The BBB continues to receive consumer complaints about door-to-door sales of magazines, cleaning products, meat, photography services, and cosmetics—all items that typically fall below $130.[14] In 2013, the BBB received over a thousand complaints concerning door-to-door magazine sales alone.[15] As consumers continue to be approached in their homes with offers for products under $130, the Commission correctly recognizes the significance that lawmakers, advocates, and consumers place on retaining the $25 limit for sales that occur in consumers' homes. I am not persuaded, however, of the need to raise the exclusionary limit for transient sales. The four commenters who supported an increase in the exclusionary limit—the Direct Selling Association (''DSA''), Mike Shaw Auto Group, and two other individual commenters—did not distinguish between in-home and transient sales, and lodged only general complaints about the rule, including that, due to inflation, the Rule now covers lower cost items that it was not originally intended to cover.[16] With respect to the auto sales that the Mike Shaw Auto Group might be concerned about, the Cooling-Off Rule already exempts auto tent sales and other sales in transient locations.[17] The only commenter who mentioned specific concerns about the $25 exclusionary limit for transient sales did so in response to the Commission's 2009 **Federal Register** Notice seeking comments on whether to retain the rule, raising a concern about transient sales as they relate to perishable food items.[18] This commenter suggested that sellers of food items in transient locations be exempted from the Cooling-Off Rule, similar to the Rule's exemption for arts and crafts shows.[19] I believe the concerns of this commenter could have been addressed in a more targeted and effective manner just as the commenter suggested, through an exemption from the federal rule sales of perishable items. Some states take this approach, and exclude perishable items from coverage of its cooling-off rule.[20]

In contrast, among those commenters who opposed the increase in the exclusionary limit, some specifically raised concerns about transient sales.[21] As for the remaining commenters who objected to an increase in the exclusionary limit, it is not clear whether they were raising concerns about only in-home sales, or both in-home and transient sales. Many of them employed the term ''door-to-door sales'' in discussing their concerns.[22] However, these commenters could simply (and correctly) have been employing the federal rule's definition of ''door-to-door'' sales, which incorporates both in-home sales and sales in transient locations under the umbrella of ''door-to-door'' sales,[23] rather than attempting to limit their concerns to in-home sales.

As the Commission correctly notes in today's **Federal Register** Notice of its decision, the federal Cooling-Off Rule does not preempt state laws or rules to the extent that such rules are not ''directly inconsistent'' with the federal Cooling-Off Rule.[24] More protective state laws—those that have lower exclusionary limits, no exclusionary limits, or broader coverage of the types of sales that qualify for the cooling-off period and notice requirements of their rules—are not ''directly inconsistent'' with the federal rule, and so are not preempted.[25]

Indeed, states have long had their own cooling-off rules that in many cases provide consumers with protections greater than those provided by the federal rule. Forty-nine states and the District of Columbia have a state cooling-off rule.[26] Some states, like Arizona,[27] North Carolina,[28] and Illinois,[29] cover only sales in consumers' homes, with exclusionary limits ranging from zero to $25. Most state laws cover both in-home sales and sales at transient locations, and once again these exclusionary limits range from zero to $25.[30] New Hampshire, with $150 minimum

professor at Hamline University, commented on the role of ''urgency'' in multilevel marketing recruitment and stated that the rapid rise in MLMs since the establishment of the Rule is a new development suggesting that the exclusionary limit should remain unchanged. Stacie Bosley Comment at 1–2.

[11] The Massachussetts Attorney General, for instance, stated that $25 was not an insignificant amount, especially in door-to-door sales where economically disadvantaged individuals and senior citizens are often targeted in their homes. Massachusetts AG Comment at 1–2. The California Consumer Affairs Association (''CCAA'') similarly believes that increasing the Cooling-Off Rule's minimum to $130 would remove crucial safeguards to reduce abusive sales practices by door-to-door sellers, who often target senior citizens, new immigrants, and low-income families. CCAA Comment at 1. Several BBB chapters expressed concern that a raise in the threshold to $130 would eliminate needed protections for most door-to-door sales, including those that target vulnerable consumers at home. BBB of Southern Colorado Comment at 1; BBB of North Alabama Comment at 1; BBB of Louisville, Kentucky Comment at 1; BBB of Utah Comment at 1.

[12] *See, e.g.,* Susanna Perkins Comment at 1, noting that ''most US households have seen their incomes stagnate.''

[13] Sid Kirchheimer, *6 Common Door-to-Door Scams,* AARP Bulletin, Oct. 29, 2012, *http://www.aarp.org/money/scams-fraud/info-10-2012/common-door-to-door-scams.html; BBB Warns of Scams That Target Seniors,* Better Business Bureau Serving Wisconsin, May 7, 2014, *http://www.bbb.org/wisconsin/news-events/news-releases/2014/05/bbb-warns-of-scams-that-target-seniors/.*

[14] *See* Better Business Bureau, 2013 Complaint and Inquiry Statistics, U.S. Statistics Sorted by Industry, available at *http://www.bbb.org/globalassets/local-bbbs/council-113/media/complaint-stats/us-stats-industry-2013.pdf; see also* Massachusetts AG Comment at 2.

[15] Better Business Bureau, 2013 Complaint and Inquiry Statistics, U.S. Statistics Sorted by Industry (reporting 41,851 consumer inquiries and 1,149 consumer complaints concerning door-to-door magazine sales).

[16] DSA Comment at 2–3; Mike Shaw Auto Group Comment at 1; BELO KELLAM [sic] Comment at 1; Susan Rothacker Comment at 1.

[17] 16 CFR 429.3(a) (exempting from the rule ''sellers of automobiles, vans, trucks or other motor vehicles sold at auctions, tent sales or other temporary places of business, provided that the seller is a seller with a permanent place of business).

[18] Fabian Seafood Company Comment at 1 (June 13, 2009).

[19] In addition to the exclusion for motor vehicle tent sales, the federal Cooling-Off Rule also excludes ''sellers of arts or crafts sold at fairs or similar places.'' 16 CFR 429.3(b).

[20] *See, e.g.,* N.M. Stat. Ann. section 57–12–21(C)(2) (New Mexico's cooling-off rule's definition of covered consumer goods and services are those ''other than perishable goods or agricultural products'').

[21] Two commenters who opposed the increase in the exclusionary limit specifically referenced concerns about transient sales. *See* Rochelle Mezzano Comment at 1 (citing concern about the difficulty in obtaining recourse from transient sellers who do not honor the Cooling-Off Rule based on her experience in purchasing an item while on a cruise ship); Alan Lunin Comment at 1 (citing concern that $25 is a significant amount of money for consumers who can be targeted ''anywhere, including outside the grocery store or inside church'').

[22] *See* Mike A. Jacques-O'Gorman Comment at 1–2; Adam Offenbecker Comment at 1; Gowen Consulting Comment at 1.

[23] *See supra* note 3.

[24] *See Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,* Rule Amendment, ____FR ____, at ____(Jan. ____, 2015) (citing 16 CFR 429.2).

[25] *Id.*

[26] Washington is the only state with no law or regulation providing a cooling-off rule, and so it relies entirely on the federal rule. Washington has laws in place that give consumers a right to cancel contracts for specific types of goods or services, including camping club and health club memberships, credit repair services, business opportunities, hearing aid purchases, retail installment plans, telemarketing sales, timeshare purchases, and vocational school enrollment. *See Consumer Issues A–Z: Cancellation Rights,* Washington State Office of the Attorney General, *http://www.atg.wa.gov/consumerissues/cancellationrights.aspx#DoorToDoorSales* (last visited Dec. 22, 2014).

[27] Ariz. Rev. Stat. Ann. section 44–5001.

[28] N.C. Gen. Stat. Ann. sections 25A–38, 39.

[29] 815 Ill. Comp. Stat. Ann. 505/2B.

[30] For instance, Alaska provides for a $10 threshold and a five-day cooling-off period, Alaska Stat. Ann. section 45.02.350; Vermont provides for a $5 threshold, Vt. Stat. Ann. tit. 9, section 2451a

Continued

exclusionary limit, is the only state with a dollar limit above $25.[31]

With respect to enforcement, states have been much more active in enforcing their state rules than has the Commission.[32] This is no doubt due at least in part to the fact that the states are closer to consumers who suffer from many of the unscrupulous activities involving sales in the home and in transient locations.

Because I am not persuaded that the federal Cooling-Off Rule's long-standing $25 exclusionary limit on transient sales should be raised to $130, and because I find there is convincing evidence on the overall need to continue protecting consumers through cooling-off rules, I urge state policy makers, law enforcement officials, and regulators to *not* interpret today's amendment to the federal Cooling-Off Rule as a signal that they should follow suit and raise the exclusionary limit of their respective cooling-off rules for sales in transient locations. Indeed, the often highly localized nature of potentially deceptive practices involving sales in transient locations puts states in the best position to determine the wisdom of raising their own exclusionary limits for sales in transient locations. I strongly encourage any state that may consider following the course of action taken by the Commission today to engage first in a more focused effort to gather evidence about potentially unscrupulous activities involving transient sales in their jurisdictions.

[FR Doc. 2015–00164 Filed 1–8–15; 8:45 am]

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(exempting purchases of under $25 where there is no contract or receipt); Oregon has no dollar limit, Or. Rev. Stat. Ann. sections 83.710, 720; and New York has a $25 limit, N.Y. Pers. Prop. Law section 426.

[31] N.H. Rev. Stat. Ann. section 361–B:1.

[32] *See, e.g.,* Second Am. Compl. at ¶¶ 11–16, 34–36, *State of West Virginia* v. *Quick Silver Restoration, LLC, et al.,* No. 14–C–1952 (W. Va. Cir. Ct. filed Nov. 6, 2014) (alleging that a roofing and home improvement company engaged in high pressure door-to-door solicitations that violated several consumer protection laws and regulations, including the state and federal cooling-off rules; Compl. at ¶ 1, *State of Vermont* v. *Terry,* No. 570–9–14 Wncv (Vt. Super. Ct. filed Sept. 24, 2014) (alleging that a door-to-door meat salesman violated the state's Consumer Protection Act by failing to notify consumers of their three-day right to cancel, misleading consumers regarding the price and guarantee on the meat, failing to disclose material information to the consumer, and selling meat without a required license); Compl., *Commonwealth of Virginia* v. *KLMN Readers Servs. Inc.,* No. CL13002796–00 (Chesapeake Cir. Ct. filed Nov. 25, 2013) (alleging that a door-to-door magazine company violated Viriginia's Consumer Protection and Home Solicitation Sales Acts) (default judgment granted Sept. 24, 2014). In contrast, the last time the Federal Trade Commission employed the federal Cooling-Off Rule in an enforcement action was nearly 15 years ago. Compl., *F.T.C.* v. *College Resource Mgmt., Inc. et al.,* No. 3–01CV0828–G (N.D. Tex. May 1, 2001) (alleging, *inter alia,* that a purported college financial services company violated Section 5 of the FTC Act and the Cooling-Off Rule in connection with its deceptive practices in financial aid sales seminars held at hotels or in banquet rooms).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0912]

Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice canceling temporary deviation from regulations.

SUMMARY: The Coast Guard is canceling the temporary deviation concerning the operating schedule that governs the Seattle Department of Transportation (SDOT) double leaf bascule Ballard Bridge across the Lake Washington Ship Canal, mile 1.1, at Seattle, WA. This deviation was necessary to accommodate evening detoured commute traffic during road construction. It is being cancelled due to the construction project has been completed.

DATES: The temporary deviation published on November 14, 2014, 78 FR 68120, is cancelled as of January 9, 2015.

ADDRESSES: The docket for this deviation, [USCG–2014–0912] 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. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Steven Fischer, Coast Guard Thirteenth District, Bridge Specialist; telephone 206–220–7277, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Basis and Purpose

On November 14, 2014, we published a temporary deviation entitled ''Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA.'' in the **Federal Register** (78 FR 68120). The temporary deviation concerned the Seattle Department of Transportation (SDOT) request that the Ballard Bridge, mile 1.1, across the Lake Washington Ship Canal accommodate evening detoured commute traffic during road construction. This deviation allowed the bridge to remain in the closed position for an extra hour during evening traffic. Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge would not be able to open during this construction period, and extend the daily closure one hour Monday through Friday. This deviation from the operating regulations was authorized under 33 CFR 117.35.

B. Cancellation

The deviation was intended to facilitate routing of heavy traffic during peak commute time on the bridge. The deviation is not necessary at this time because SDOT has completed the construction on the Ballard Bridge.

Dated: December 23, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–00174 Filed 1–8–15; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–1057]

Drawbridge Operation Regulations; Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Metro-North WALK Bridge across the Norwalk River, mile 0.1, at Norwalk, Connecticut. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the Metro-North WALK Bridge to operate under an alternate schedule to facilitate the high volume of rail service across the Metro-North WALK Bridge at peak hours, while balancing both the needs of rail and marine traffic.

DATES: This deviation is effective without actual notice from January 9, 2015 through 11:59 p.m. on June 28, 2015. For the purposes of enforcement, actual notice will be used from 12:01

a.m. on January 1, 2015, until January 9, 2015.

Comments and related material must be received by the Coast Guard on or before May 31, 2015. Requests for public meetings must be received by the Coast Guard on or before May 1, 2015.

ADDRESSES: You may submit comments identified by docket number USCG–2014–1057 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, *judy.k.leung-yee@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2014–1057), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, type the docket number [USCG–2014–1057] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–1057) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before May 1, 2015, using one of the methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The Metro-North WALK Bridge, mile 0.1, across the Norwalk River at Norwalk, Connecticut, has a vertical clearance in the closed position of 16 feet at mean high water and 23 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.217(b).

The existing Drawbridge Operation Regulations require the draw of the Metro-North Walk Bridge to open on signal as follows: From 5 a.m. to 9 p.m., except that, from Monday through Friday excluding holidays, the draw need not be opened from 7 a.m. to 8:45 a.m. and 4 p.m. to 6 p.m., unless an emergency exists; only once in any 60-minute period from 5:45 a.m. to 7 a.m. and 6 p.m. to 7:45 p.m. From 9 p.m. to 5 a.m., if at least four hours notice is given. A delay of up to 20 minutes may be expected if a train is approaching so closely that it may not be safely stopped.

The owner of the bridge, Connecticut Department of Transportation, requested a change to the Drawbridge Operation Regulations because the volume of train traffic across the bridge during the peak commuting hours makes bridge openings impractical. As a result, bridge openings that occur during peak commuter train hours cause significant delays to commuter rail traffic.

The waterway users are seasonal recreational vessels and commercial vessels of various sizes.

The Coast Guard is publishing this temporary deviation to test the proposed regulation change to determine whether a permanent change to the schedule is necessary to better balance the needs of marine and rail traffic.

Under this temporary deviation, in effect from January 1, 2015 through June 28, 2015, the Metro-North WALK Bridge at mile 0.1, across the Norwalk River, at Norwalk, Connecticut shall operate as follows:

The draw shall open on signal between 4 a.m. and 9 p.m. after at least a two hour advance notice is given; except that, from 4:30 a.m. through 10 a.m. and from 2 p.m. through 9 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessel traffic.

From 9 p.m. through 4 a.m. the draw shall open on signal after at least a four hour advance notice is given.

Requests for bridge openings may be made by calling the bridge via marine

radio VHF FM Channel 13 or the telephone number posted at the bridge.

A delay of up to 20 minutes may be expected if a train is approaching so closely that it may not be safely stopped.

Vessels that can pass under the bridge in the closed position may do so at any time. There are no alternate routes. The bridge can open in the event of an emergency situation.

The Coast Guard contacted the waterway users regarding this proposed temporary deviation to test a proposed change to the Drawbridge Operation Regulations and no objections were received.

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

Dated: December 24, 2014.

V.B. Gifford, Jr.,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2015–00195 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0935]

RIN 1625–AA00, 1625–AA11, and 1625–AA87

Regulated Navigation Areas and Limited Access Areas; Waterway Management of Apra Harbor, Guam

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising and consolidating existing regulated navigation areas, security zones and safety zones currently in place in Apra Harbor, Guam. This action will replace existing redundant, potentially confusing and outdated navigation regulations with a cogent regulatory framework in order to better meet the needs of the community and help ensure the safe and efficient use of the harbor.

DATES: This rule is effective on February 10, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0935. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Kristina Gauthier, U.S. Coast Guard Sector Guam at (671) 355–4866, email *Kristina.M.Gauthier@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

An Advance Notice of Public Rule Making (ANPRM) on this action to revise and consolidate the existing regulated navigation areas, security zones and safety zones in and around Apra Harbor, Guam was published on January 10, 2014 and two public meetings were held on January 22, 2014. Three comments were received during the comment period. Subsequently, after consideration of all comments, a Notice of Proposed Rule Making (NPRM) on this action was published on September 19, 2014. The closing date for comments regarding the NPRM was November 3, 2014. No new comments were received. No subsequent public meetings were requested or held.

B. Basis and Purpose

The legal basis for this rulemaking is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 160.5; and Department of Homeland Security Delegation No. 0170.1.

The purpose of the rulemaking is to revise and consolidate the existing regulated navigation areas, security zones and safety zones in and around Arpa Harbor, Guam. Navigational regulations of Apra Harbor have been in place in various forms dating back to the era of U.S. Navy administration of Guam. Some of the regulations predate the promulgation of the Ports and Waterways Safety Act of 1972, were initially included in 33 CFR parts 127 and 128, and were subsequently re-codified in 33 CFR part 165 on July 8, 1982 as part of a regulatory reorganization effort. The regulations in part 165 were subsequently amended in 1986, 1990, 1996, 1998 and 2003. Between 1972 and 2003 four Regulated Navigation Areas, three security zones and two safety zones were created and/or amended. One of the security zones was subsequently removed, another changed to a safety zone, and an additional safety zone created. The following details this history:

Apra Harbor, Guam safety zone regulations in 33 CFR 165.1401 were last amended in 1990 (55 FR 18725, May 4, 1990). These zones were established as security zones in 1972 (37 FR 10800, 31 May 1972) amended in 1975 (40 FR 1016, January 6, 1975), codified in 33 CFR 127.1401(a) and (b) in 1982 as part of a regulatory reorganization effort (47 FR 29569, 29667, July 8, 1982), and were subsequently disestablished and re-established as safety zones in 1990 (55 FR 18725, May 4, 1990).

Apra Outer Harbor, Guam regulated navigation area regulations in 33 CFR 165.1402 were established by 33 CFR part 165 (47 FR 29660, July 8, 1982), and amended in 1996 (61 FR 33669, June 28, 1996), and subsequently again in 1998 (63 FR 35533, June 30, 1998).

Apra Harbor Security Zone in 33 CFR 165.1404 was promulgated in 1990 (55 FR 18725, May 4, 1990).

Other Regulated Navigation Areas and Security Zone regulations in 33 CFR 165.1405 regarding Designated Escorted Vessels-Philippine Sea and Apra Harbor Guam (including Cabras Island Channel) were established in 2003 (68 FR 4384, January 29, 2003).

Currently there are four Regulated Navigation Areas (RNA), one security zone and two safety zones within and approaching Apra Harbor. These regulations, included in 33 CFR 165.1401, 1402, 1404 and 1405, while intended to improve the safety and security of Apra Harbor and the mariners operating therein, are potentially confusing, overlapping, and do not adequately address current needs. The purpose of this rulemaking is to simplify the current regulations, taking into account relevant safety and security navigational requirements for the waters of Apra Harbor, including approaches to the Harbor. This rulemaking creates a regulatory scheme that ensures the needs of all stakeholders are addressed in a concise, understandable format through consolidation of the regulated navigation areas and rationalization of

limited access areas (safety or security zones).

C. Discussion of Comments, Changes, and the Final Rule

No comments regarding the Notice of Proposed Rule Making were received. The regulatory text of the Final Rule is the same as the regulatory text of the Notice of Proposed Rule Making without change.

By this rulemaking, the Coast Guard is:

- Revising 33 CFR 165.1401 by:
  - Removing the safety zone around Wharf H as the wharf is no longer used for explosives cargo handling on a regular basis.
  - Removing Wharf H terminology in the special regulation paragraph, as it no longer applies.
  - Expanding and re-designating the safety zone around Naval Wharf Kilo as Safety Zones A and B, to address the increasing volumes of explosive cargoes handled by the wharf, while assuring operational flexibility to maritime operators under varying cargo load conditions and their explosive arcs. The activation and enforcement of Safety Zone A will be visually indicated by a red (BRAVO) flag and a ''SAFETY ZONE A'' sign displayed at Naval Wharf Kilo. The activation and enforcement of Safety Zone B will be visually indicated by a red (BRAVO) flag and a ''SAFETY ZONE B'' sign displayed at Naval Wharf Kilo.
- Removing 33 CFR 165.1402 because:
  - The Regulated Navigation Area (RNA) designated in paragraph (a) is redundant and less precise than a subsequent RNA addressing the area, 33 CFR 165.1405(a)(1) and (2), that was made effective January 29, 2003 (68 FR 4384, Jan. 29, 2003).
  - The existing § 165.1402(b) regulations are outdated, concurrently addressed by Coast Guard anchorage regulation 33 CFR 110.238, and local government harbor regulations.
- Amending 33 CFR 165.1405 by:
  - Removing the words ''(including Cabras Island Channel)'' from the section heading,
  - Removing paragraph (a)(4) because Cabras Island Channel is already encompassed by paragraph (a)(2), Apra Harbor.
  - Revising paragraph (a)(2) by replacing a reference to ''Apra Harbor'' with ''Apra Outer Harbor.'' This is appropriate because the current regulation is redundant in addressing the waters of Apra Inner Harbor that are restricted by existing U.S. Army Corps of Engineers regulation 33 CFR 334.1430.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rulemaking will not adversely impact the economy or a segment of the economy in Guam, interfere with another agency, alter any entitlements, grants, user fees, or loans, or raise a novel or controversial question of law or policy. This rulemaking will streamline the current regulations in place, actually decreasing the burden on waterway users. Further, although the intention is to expand the safety zones around Naval Wharf Kilo, traffic will be permitted to pass through the zones with the permission of the Captain of the Port. In fact, providing two safety zones will limit the burden on the mariner, allowing a closer approach to Naval Wharf Kilo under certain conditions.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received 0 comments from the Small Business Administration on this rule. 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. This rulemaking is intended to streamline the current regulations in place, actually decreasing the burden on certain small entities and waterway users.

3. 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).

4. Federalism

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 determined that this rule does not have implications for federalism.

5. 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.

6. 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.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

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.

11. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 the consolidation and rationalization of existing Apra Harbor navigation regulations. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.1401 to read as follows:

§ 165.1401 Apra Harbor, Guam—safety zones.

(a) *Location.* (1) The following is designated Safety Zone A: The waters of Apra Outer Harbor encompassed within an arc of 1,000 yards radius centered at the center of Naval Wharf Kilo, located at 13 degrees 26′44.5″ N and 144 degrees 37′50.7″ E. (Based on World Geodetic System 1984 Datum).

(2) The following is designated Safety Zone B: The waters of Apra Outer Harbor encompassed within an arc of 1,400 yards radius centered at the center of Naval Wharf Kilo, located at 13 degrees 26′44.5″ N and 144 degrees 37′50.7″ E. (Based on World Geodetic System 1984 Datum).

(b) *Special regulations.* (1) Safety Zone A, described in paragraph (a) of this section, will only be enforced when Naval Wharf Kilo, or a vessel berthed at Naval Wharf Kilo, is displaying a red (BRAVO) flag by day or a red light by night, accompanied by a ''SAFETY ZONE A'' sign.

(2) Safety Zone B, described in paragraph (a) of this section, will only be enforced when Naval Wharf Kilo, or a vessel berthed at Naval Wharf Kilo, is displaying a red (BRAVO) flag by day or a red light by night, accompanied by a ''SAFETY ZONE B'' sign.

(3) Under general regulations in § 165.23, entry into the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Guam.

§ 165.1402 [Removed]

■ 3. Remove § 165.1402.

■ 4. In § 165.1405, revise the section heading and paragraph (a)(2) and remove paragraph (a)(4) to read as follows:

§ 165.1405 Regulated Navigation Areas and Security Zones: Designated Escorted Vessels-Philippine Sea and Apra Harbor Guam, and Tanapag Harbor, Saipan, Commonwealth of the Northern Mariana Islands (CNMI).

(a) * * *

(2) *Apra Outer Harbor, Guam*—All waters from surface to bottom of Apra Outer Harbor, Guam, shoreward of the COLREGS Demarcation line as described in 33 CFR part 80.

* * * * *

Dated: December 19, 2014.

C. B. Thomas,

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

[FR Doc. 2015–00181 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0554]

RIN 1625–AA11

Regulated Navigation Area; Sarah Mildred Long Bridge Replacement, Portsmouth, NH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The United States Coast Guard is establishing a Regulated Navigation Area (RNA) on the navigable waters of the Piscataqua River under and surrounding the Sarah Mildred Long Bridge between Portsmouth, NH and Kittery, ME. This RNA will allow the United States Coast Guard to enforce speed and wake restrictions and limit vessel traffic through the RNA during bridge replacement operations, both planned and unforeseen, which could pose an imminent hazard to persons and vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during bridge structural repair operations.

DATES: This rule is effective from January 9, 2015 until May 31, 2019. This rule has been enforced with actual notice since December 31, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2014–0554. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Myles Greenway, Waterways Management at First Coast Guard District at 617–223–8385 or email at *Myles.J.Greenway@uscg.mil;* or call Lieutenant Junior Grade David T. Bourbeau, Waterways Management Division at Coast Guard Sector Northern New England, at 207–347–5015 or email at *David.T.Bourbeau@uscg.mil.* If you have questions on viewing or submitting

material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
MEDOT Maine Department of Transportation
NHDOT New Hampshire Department of Transportation
NOAA National Oceanic and Atmospheric Administration
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum of 1983
RNA Regulated Navigation Area

A. Regulatory History and Information

The MEDOT applied for a bridge construction permit with the Coast Guard on August 15, 2013. The United States Coast Guard issued Public Notice 1–137 on February 10, 2014, which was published on the United States Coast Guard Navigation Center Web site and the First Coast Guard District—Bridge Branch Web site, and solicited comments through March 12, 2014. Three comments were received in response to the public notice: one comment was a statement of no objection and two comments were in favor of the project.

On August 25, 2014, we published a NPRM entitled Regulated Navigation Area; Sarah Mildred Long Bridge Replacement, Portsmouth, NH in the **Federal Register** (79 FR 50565). We received 2 comments on the proposed rule. Those comments are discussed below.

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**. The comment period for the Notice of Proposed Rulemaking ended on September 24, 2014. There was insufficient time to prepare and publish this Final Rule by November 30, 2014, which was thirty days before the start of bridge construction and the need for the rule. Changing the bridge construction schedule to accommodate the regulation is impractical and unnecessary because the impact of this regulation on the waterway will be minimal.

B. Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

MEDOT will replace the existing vertical lift bridge over the Piscataqua River, which carries the U.S. Route 1 Bypass from Portsmouth, NH, to Kittery, ME, with a hybrid vertical lift bridge on an upstream alignment. The project is necessary to replace a structurally and operationally deficient bridge that has exceeded its useful life. In the normal vehicle use mode, the new vertical lift bridge will provide a vertical clearance through the main channel of 56 feet above mean high water (MHW) in the closed position and 135 feet above MHW in the open position, and a horizontal clearance of 250 feet measured normal to the axis of the channel. When closed to normal vehicle use (*i.e.* in rail use mode), the new bridge will provide a vertical clearance through the main channel of 16 feet MHW.

The construction of the new Sarah Mildred Long Bridge will involve large machinery and construction vessel operations above and in the navigable waters of the Piscataqua River. These operations, by their nature, are hazardous and pose risks both to recreational and commercial traffic as well as the construction crew. In order to mitigate the inherent risks involved in the construction, it is necessary to control vessel movement through the area.

The purpose of this rule is to ensure the safe transit of vessels in the area, and to protect all persons, vessels, construction crews, and the marine environment during bridge construction operations on the Piscataqua River between Portsmouth, NH and Kittery, ME.

C. Discussion of Comments, Changes and the Final Rule

Two comments were received on Docket No. USCG–2014–0554. The first comment questioned whether the waterway is ''navigable''. As per 33 CFR 2.36, the Piscataqua River is a U.S. navigable waterway. The second comment questioned the specified latitude and longitude in the NPRM and whether the coordinates are based on North American Datum of 1983 (NAD 83) horizontal datum. The comment suggested that if the latitude and longitude coordinates are NAD 83 then it should be stated in the final rule. Upon confirming this with NOAA, ''(NAD 83)'' was added to the regulatory text.

Construction operations are sensitive to water movement, and wake from passing vessels could pose significant risk of injury or death to construction workers. In order to minimize such unexpected or uncontrolled movement of water, the RNA will limit vessel speed and wake of all vessels operating in the vicinity of the bridge construction zone. This will be achieved by implementing a five (5) knot speed limit and ''NO WAKE'' zone in the vicinity of the construction as well as providing a means to suspend all vessel traffic for emergent situations that pose imminent threat to waterway users in the area. The RNA will also protect vessels desiring to transit the area by ensuring that vessels are only permitted to transit when it is safe to do so.

The Coast Guard has discussed this project at length with the NHDOT and MEDOT to identify if the project can be completed without channel closures and, if possible, what impact that would have on the project timeline. Through these discussions, it became clear that while the majority of construction activities during the span of this project will not require waterway closures, there are certain tasks that can only be completed in the channel and will require closing the waterway.

The Coast Guard may close the RNA described in this rule to all vessel traffic during any circumstance that poses an imminent threat to waterway users operating in the area. Complete waterway closures will be made with as much advanced notice as possible.

Further, the speed limit of five (5) knots will be in effect at all times within the RNA and all vessels must proceed through the area with caution and operate in such a manner as to produce no wake unless a higher minimum speed is necessary to maintain bare steerage. The Coast Guard will rely on the methods described in 33 CFR 165.7 to notify the public of the time and duration of any closure of the RNA.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and

Budget has not reviewed it under those Orders.

We expect the economic impact of this rule to be minimal because this regulated navigation area requires vessels to reduce speed through 600 yards of the Piscataqua River, causing only a minimal delay to a vessel's transit. In addition, periods when the regulated navigation area is closed to all traffic are expected to be short in duration, and we will provide advance notice of such closures so that the boating public can plan transits accordingly. Such notifications will be made to local mariners through appropriate means, such as Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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.

This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the regulated navigation area while it is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for all of the reasons discussed in the Regulatory Planning and Review section.

3. Assistance for Small Entities

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

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

4. 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).

5. Federalism

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 determined that this rule does not have implications for federalism.

6. 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.

7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will 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.

12. Energy Effects

This rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of an RNA and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0554 to read as follows:

§ 165.T01–0554 Regulated Navigation Area; Sarah Mildred Long Bridge Replacement, Portsmouth, NH.

(a) *Location.* The following area is a Regulated Navigation Area (RNA): All navigable waters of the Piscataqua River between Portsmouth, NH and Kittery, ME, from surface to bottom, within a 300 yard radius of position 43°05′10″ N, 070°45′38″ W (NAD 83), center point of the existing Sarah Mildred Long Bridge.

(b) *Regulations.* (1) The general regulations contained in §§ 165.10, 165.11, and 165.13 apply within the RNA.

(2) Any vessel transiting through the RNA must make a direct passage. No vessel may stop, moor, anchor or loiter within the RNA at any time unless they are working on the bridge construction. Movement within the RNA is subject to a ''Slow-No Wake'' speed limit. All vessels may not produce a wake and may not attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway.

(3) There may be times that the First District Commander or the Captain of the Port (COTP) finds it necessary to close the RNA to vessel traffic. All closures will be limited to specific hours of the day. Mariners will be advised of all closure dates and times via Local Notice to Mariners and Broadcast Notice to Mariners in advance of closure times. During times of limited closure, persons and vessels may request permission to enter the RNA by contacting the COTP or the COTP's on-scene representative on VHF–16 or via phone at 207–767–0303.

(4) Any vessels transiting in the RNA must comply with all directions given to them by the COTP or the COTP's on-scene representative. The ''on-scene representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The on-scene representative may be on a Coast Guard vessel; or other designated craft; or on shore and communicating with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) All other relevant regulations, including but not limited to the Rules of the Road, as codified in 33 CFR subchapter E, Inland Navigational Rules, remain in effect within the RNA and must be strictly followed at all times.

(c) *Enforcement period.* This regulation is enforceable 24 hours a day from 12:01 a.m. on December 31, 2014 until 11:59 p.m. on May 31, 2019.

(d) *Notification.* The Coast Guard will rely on the methods described in § 165.7 to notify the public of the time and duration of any closure of the RNA. Violations of this RNA may be reported to the COTP at 207–767–0303 or on VHF-Channel 16.

Dated: December 22, 2014.

L.L. Fagan,

Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2015–00182 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0990]

RIN 1625–AA00

Safety Zone; Blue Water Resort and Casino Southwest Showdown 4; Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Lake Moolvalya region of the navigable waters of the Colorado River in Parker, Arizona in support of the Arizona Drag Boat Association sponsored race event, the Blue Water Resort and Casino Southwest Showdown. This safety zone is established to ensure the safety of participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Unauthorized persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or their designated representative. The Coast Guard requests public comments on the temporary safety zone.

DATES: This rule is effective from 9 a.m. on February 20, 2015 through 6 p.m. February 22, 2015. This rule will be enforced from 9 a.m. until 6 p.m. February 20, 2015, February 21, 2015, and February 22, 2015. Public comments must be received by February 9, 2015.

ADDRESSES: Submit comments using *one* of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand deliver*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

Documents mentioned in this preamble are part of docket [USCG–2014–0990]. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Nick Bateman, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Public Participation and Comments

We encourage you to submit comments (or related material) on this temporary final rule. We will consider all submissions and may adjust our final

action based on your comments. Comments should be marked with docket number USCG–2014–0990 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ × 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Regulatory History and Information

The Blue Water Resort and Casino Southwest Showdown is an annual recurring marine event in March, and is listed in 33 CFR 100.1102 (table 1, number 7) for annual marine events on the Colorado River, between Davis Dam and Headgate Dam. Special local regulations exist for the marine event to allow for high speed boat racing in a no-wake zone. For 2015, the event dates have been shifted from the listed weekend in March, to February. As such, a temporary safety zone will be established to ensure the safety of event participants and spectators.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because an NPRM would be impracticable and contrary to the public interest in ensuring safety. We did not receive confirmation of the February event dates until November 15, 2014, which left insufficient time to draft, publish, and receive public comment on an NPRM. We wish to take immediate action to help protect the safety of the participants, crew, spectators, and participating vessels from other vessels during this three day annual event. However, because publication of this rule in the **Federal Register** will precede the event by several weeks, we are requesting public comment on the need for and sufficiency of our safety zone, and on whether it should be adjusted in any way. In light of public comment, and with actual notice by on-scene personnel, we may modify the safety zone during its periods of enforcement.

C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

Because of the date change, this annual recurring marine event requires promulgation of a limited access area safety zone to ensure the safety of the event and support the safety of event participants and the public, who may not be aware of the event date change from March to February.

D. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone that will be enforced from 9 a.m. to 6 p.m. on February 20, 2015, February 21, 2015, and February 22, 2015. The effect of the temporary safety zone will be to restrict navigation in the vicinity of the boat race site until the conclusion of the races. The limits of the safety zone will support the Coast Guard issued marine event permit special local regulations to include all the navigable waters of the Colorado River between Headgate Dam and 0.5 miles north of the Blue Water Marina in Parker, Arizona.

The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative, during the proposed times. The three day event will include racing on Friday, Saturday, and Sunday. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, limited duration of the safety zone and that the boat race is an annual recurring marine event. Additionally, to the maximum extent practicable, the event sponsor will assist with the movement of boaters desiring to transit the racing area during non-racing times throughout the three days.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the impacted portion of the Colorado River from 9 a.m. to 6 p.m. on February 20, 2015, February 21, 2015 and February 22, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Captain of the

Port, or his designated representative. The event sponsor will also to their maximum extent assist boaters wishing to transit the racing area during non-racing times throughout the three days. Before the effective period, the Coast Guard will publish a Local Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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 determined that this rule does not have implications for federalism.

6. 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.

7. 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 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 establishment of a safety zone on the navigable waters of Moovalya Lake. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–677 to read as follows:

§ 165.T11–677 Safety zone; Blue Water Resort and Casino Southwest Showdown 4; Parker, AZ.

(a) *Location.* The limits of the safety zone will include all the navigable waters of the Colorado River on Moovalya Lake between Headgate Dam and 0.5 miles north of the Blue Water Marina in Parker, Arizona.

(b) *Enforcement period.* This section will be enforced from 9 a.m. to 6 p.m. on February 20, 2015, February 21, 2015, and February 22, 2015.

(c) *Definitions.* The following definition applies to this section: *designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast

Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard or designated patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other Federal, state, or local agencies in patrol and notification of the regulation.

Dated: December 15, 2014.

J.A. Janszen,

Commander, U.S. Coast Guard, Acting, Captain of the Port San Diego.

[FR Doc. 2015–00176 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2014–1037]

RIN 1625–AA00

Safety Zone: Eastport Breakwater Terminal, Eastport, Maine

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters around the Eastport Breakwater Terminal in Eastport, Maine. This safety zone is intended to restrict vessels from approaching within 100 yards of the eastern face of the Eastport Breakwater Terminal without authorization from the Captain of the Port (COTP), Sector Northern New England. This action is necessary due to the uncertainty regarding the breakwater's strength following a partial collapse of the structure on December 4, 2014.

DATES: This rule is effective without actual notice from January 9, 2015 until January 30, 2017. For the purposes of enforcement, actual notice will be used from the date the rule was signed, December 12, 2014, until January 9, 2015.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2014–1037 and are available online by going to *http://www.regulations.gov,* inserting USCG–2014–1037 in the ''Keyword'' box, and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT David Bourbeau at Sector Northern New England; telephone (207) 347–5015, email *David.T.Bourbeau@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
U.S.C. United States Code
USCG United States Coast Guard
COTP Captain of the Port

A. Regulatory Information and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable and contrary to the public interest. Because of the emergency nature of the incident that created the need for this safety zone, there is insufficient time for the Coast Guard to seek public comments. Publishing an NPRM and delaying the effective date of this rule to await public comments would inhibit the Coast Guard's ability to fulfill its statutory missions to protect ports, waterways, and the maritime public.

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** for the reasons discussed above. For the same reasons discussed in the preceding paragraph, the Coast Guard finds that waiting 30 days to make this rule effective would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1226, 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones.

On December 4, 2014, the southwest portion of the Eastport Breakwater Terminal collapsed into the protected harbor shoreward of the Breakwater in Eastport, Maine. The catastrophic collapse resulted in several vessels being damaged or destroyed, and left the remaining breakwater structure at risk of further collapse. This safety zone is being established based on the analysis of an independent engineering firm that determined the remaining portion of the breakwater does not have the required lateral strength, nor is it designed to hold the weight of the current forces thrust upon it. The remaining portion of the breakwater could collapse without warning. The COTP has determined that a safety zone is necessary to protect the public from the safety hazards created by this emergency.

C. Discussion of Rule

For the reasons discussed above, the COTP is establishing a temporary safety zone in Eastport Harbor, ME. The safety zone will be bound inside an area within 4 points along the breakwater at 44°54′26″ N, 066°59′00″ W, 44°54′25″ N, 066°58′54″ W, 44°54′19″ N, 066°58′55″ W, 44°54′19″ N, 066°59′01″ W. No vessel may enter, transit, moor, or anchor within this safety zone during the period of enforcement unless authorized by the COTP or designated representative.

The COTP will cause public notifications to be made by all appropriate means including but not limited to Broadcast Notice to Mariners.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The safety zone will be relatively short in duration and it covers only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterway outside of the safety zone. Moreover, vessels desiring entry into the safety zone may be authorized to do so by the COTP or designated representative. Advanced public notifications will also be made to the local maritime community by Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 persons.

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. This rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit in the vicinity of the Eastport Breakwater. This temporary safety zone will not have a significant economic impact on a substantial number of small entities for all of the reasons discussed in the Regulatory Planning and Review section above.

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

3. Assistance for Small Entities

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 will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

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 determined that this rule does not have implications for federalism.

6. 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.

7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA) (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 establishment of a safety zone and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. Under figure 2–1, paragraph (34)(g), of the Instruction, an environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C., 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–1037 to read as follows:

§ 165.T01–1037 Safety Zone: Eastport Breakwater Terminal, Eastport, Maine.

(a) *Location.* The following area is a safety zone: All navigable waters, from surface to bottom, within the following position(s) 44°54′26″ N, 066°59′00″ W, 44°54′25″ N, 066°58′54″ W, 44°54′19″ N, 066°58′55″ W, 44°54′19″ N, 066°59′01″ W, (NAD). Friar Roads, Eastport, Maine. All positions are approximate.

(b) *Enforcement period.* This rule will be enforced from 3:00 p.m. on December 11, 2014 to 11:59 p.m. January 30, 2017.

(c) *Notification.* Coast Guard Sector Northern New England will give actual notice to mariners for the purpose of enforcement of this temporary safety zone. Also, Sector Northern New England will notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(d) *Regulations.* (1) The general regulations contained in § 165.23 apply.

(2) In accordance with the general regulations in § 165.23, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(3) The ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated representative may be on board a Coast Guard vessel, or on board a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(4) Upon being hailed by a U.S. Coast Guard vessel or his designated representatives by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Vessel operators desiring to enter or operate within this safety zone shall contact the Captain of the Port or his designated representatives via VHF channel 16 to obtain permission to do so.

Dated: December 12, 2014.

B. S. Gilda,

Captain, U.S. Coast Guard, Captain of the Port, Northern New England.

[FR Doc. 2015–00184 Filed 1–8–15; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2014–0023]

RIN 0651–AC96

Changes to Patent Term Adjustment in View of the Federal Circuit Decision in Novartis v. Lee

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice pertaining to patent term adjustment in view of the decision by the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) in *Novartis AG* v. *Lee.* The Federal Circuit confirmed in *Novartis* that any time consumed by continued examination is subtracted in determining the extent to which the period of application pendency exceeds three years, regardless of when the continued examination was initiated. The Federal Circuit, however, decided that the time consumed by continued examination does not include the time after a notice of allowance, unless the Office actually resumes examination of the application after allowance. Accordingly, the Office is revising the rules of practice to provide that the time consumed by continued examination does not include the time after a notice of allowance, unless the applicant files a request for continued examination after such allowance. The Office also is revising the rules of practice to provide that the submission of a request for continued examination after any notice of allowance has been mailed will constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application and thus result in a reduction of any period of patent term adjustment. The Office is providing an exception to this patent term adjustment reduction provision for a request for continued examination filed solely to submit information cited in a patent office communication in a counterpart application that is submitted to the Office within thirty days of receipt of the patent office communication. Additionally, the Office is clarifying what papers may be submitted after a notice of allowance without the applicant being considered to have failed to engage in reasonable efforts to conclude processing or examination of the application.

DATES: *Effective date:* The changes to 37 CFR 1.703 in this final rule are effective on January 9, 2015, and the changes to 37 CFR 1.704 in this final rule are effective on March 10, 2015.

Applicability date: The changes to 37 CFR 1.703 in this final rule apply to any patent granted before, on, or after January 9, 2015. 37 CFR 1.704 as adopted in this final rule applies to all original applications (other than for a design patent) filed on or after May 29, 2000, and to patents issued on such applications, except that 37 CFR 1.704(c)(12) as adopted in this final rule applies only to applications in which a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed on or after March 10, 2015, and 37 CFR 1.704(c)(13) as adopted in this final rule applies only to patent applications filed under 35 U.S.C. 111 on or after December 18, 2013, and international patent applications in which the national stage commenced under 35 U.S.C. 371 on or after December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, at telephone number 571–272–7757.

SUPPLEMENTARY INFORMATION: *Executive Summary: Purpose:* The Office is revising the rules of practice pertaining to the patent term adjustment provisions of 35 U.S.C. 154(b) in view of the decision by the Federal Circuit in *Novartis,* 740 F.3d 593 (Fed. Cir. 2014). The Federal Circuit confirmed in *Novartis* that any time consumed by continued examination under 35 U.S.C. 132(b) is subtracted in determining the extent to which the period defined in 35 U.S.C. 154(b)(1)(B) exceeds three years, regardless of when the continued examination under 35 U.S.C. 132(b) was initiated. The Federal Circuit, however, decided that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance unless the Office actually resumes examination of the application after allowance. This final rule follows the Office's earlier proposal to change the rules of practice in view of the Federal Circuit's decision in *Novartis. See Changes to Patent Term Adjustment in view of the Federal Circuit Decision in Novartis* v. *Lee,* 79 FR 34681 (June 18, 2014) (*Novartis* notice of proposed rulemaking).

Summary of Major Provisions: The Office is revising the rules of practice to provide that the time consumed by continued examination does not include the time after the mailing date of a notice of allowance, unless the applicant files a request for continued examination under 35 U.S.C. 132(b) after such allowance. The Office also is revising the rules of practice to provide that the submission of a request for continued examination after any notice of allowance has been mailed will constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application and thus result in a reduction of any period of patent term adjustment. The Office is providing an exception to this patent term adjustment reduction provision for a request for continued examination filed solely to submit information cited in a patent office communication in a counterpart application that is submitted to the Office within thirty days of receipt of the patent office communication. Additionally, the Office is clarifying what papers may be submitted after a notice of allowance without the applicant being considered to have failed to engage in reasonable efforts to conclude processing or examination of the application.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

Background: Section 532(a) of the Uruguay Round Agreements Act or URAA (Pub. L. 103–465, 108 Stat. 4809 (1994)) amended 35 U.S.C. 154 to provide that the term of a patent ends on the date that is twenty years from the filing date of the application, or the earliest filing date for which a benefit is claimed under 35 U.S.C. 120, 121, or 365(c). The URAA also contained provisions, codified at 35 U.S.C. 154(b), for patent term extension due to certain examination delays. Under the patent term extension provisions of 35 U.S.C. 154(b) as amended by the URAA, an applicant is entitled to patent term extension for delays due to interference (which has since been replaced by derivation), secrecy order, or successful appellate review. *See* 35 U.S.C. 154(b) (1995). The Office implemented the patent term extension provisions of the URAA in a final rule published in April of 1995. *See Changes to Implement 20-Year Patent Term and Provisional Applications,* 60 FR 20195 (Apr. 25, 1995) (twenty-year patent term final rule).

The American Inventors Protection Act of 1999 or AIPA (Pub. L. 106–113, 113 Stat. 1501, 1501A–552 through 1501A–591 (1999)) further amended 35 U.S.C. 154(b) to include additional bases for patent term extension (characterized as ''patent term adjustment'' in the AIPA). Original utility and plant patents issuing from applications filed on or after May 29, 2000, may be eligible for patent term adjustment if issuance of the patent is delayed due to one or more of the enumerated administrative delays listed in 35 U.S.C. 154(b)(1). Specifically, under the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by the AIPA, an applicant is entitled to patent term adjustment for the following reasons: (1) If the Office fails to take certain actions during the examination and issue process within specified time frames (35 U.S.C. 154(b)(1)(A)); (2) if the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)); and (3) for delays due to interference (and now derivation), secrecy order, or successful appellate review (35 U.S.C. 154(b)(1)(C)). *See* 35 U.S.C. 154(b)(1). The AIPA, however, sets forth a number of conditions and limitations on any patent term adjustment accrued under 35 U.S.C. 154(b)(1). Specifically, 35 U.S.C. 154(b)(2)(C) provides, in part, that ''[t]he period of adjustment of the term of a patent under [35 U.S.C. 154(b)(1)] shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application'' and that ''[t]he Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.'' 35 U.S.C. 154(b)(2)(C)(i) and (iii). The Office implemented the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by the AIPA, including setting forth circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application, in a final rule published in September of 2000. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR 56365 (Sept. 18, 2000) (AIPA patent term adjustment final rule).

In January 2014, the Federal Circuit issued a decision in *Novartis* pertaining to the patent term adjustment provisions of 35 U.S.C. 154(b), and specifically the impact of continued examination under 35 U.S.C. 132(b) on patent term adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B). The Federal Circuit confirmed in *Novartis* that any time consumed by continued examination under 35 U.S.C. 132(b) is subtracted in determining the extent to which the period defined in 35 U.S.C. 154(b)(1)(B) exceeds three years, regardless of when the continued examination under 35 U.S.C. 132(b) was initiated. *See* 740 F.3d at 601 (''[t]he better reading of the language is that the patent term adjustment time should be calculated by determining the length of the time between application and patent issuance, then subtracting any continued examination time (and other time identified in (i), (ii), and (iii) of [35 U.S.C. 154](b)(1)(B)), and determining the extent to which the result exceeds three years''). The Federal Circuit, however, decided that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance unless the Office actually resumes examination of the application after allowance. *See* 740 F.3d at 602 (''[t]he common-sense understanding of 'time consumed by continued examination,' 35 U.S.C. 154(b)(1)(B)(i), is time up to allowance, but not later, unless examination on the merits resumes''). Therefore, the Office is revising the rules of practice to provide that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after the mailing date of a notice of allowance, unless the

applicant files a request for continued examination after such allowance.

The Office makes the patent term adjustment determination indicated in the patent by a computer program that uses the information recorded in the Office's Patent Application Locating and Monitoring (PALM) system (except when an applicant requests reconsideration pursuant to § 1.705). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56381 (response to comment 25). The decision in *Novartis* that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance unless the Office actually resumes examination of the application after allowance required a modification of the Office's patent term adjustment program. The modification of the Office's patent term adjustment program required by the decision in *Novartis* has now been completed, and the patent term adjustment determinations in patents issued on or after October 7, 2014 are consistent with the Federal Circuit decision in *Novartis* and this final rule. The Office calculates the patent term adjustment manually when an applicant requests reconsideration of a patent term adjustment determination pursuant to 37 CFR 1.705. The Office has been deciding requests for reconsideration of a patent term adjustment filed pursuant to 37 CFR 1.705 consistent with the Federal Circuit decision in *Novartis* since January 15, 2014 (the date the Federal Circuit issued its decision in *Novartis*).

Nothing in this final rule shall be construed as a waiver of: (1) The requirement of 37 CFR 1.705(b) that any request for reconsideration of the patent term adjustment indicated on the patent must be by way of an application for patent term adjustment filed no later than two months from the date the patent was granted (which two-month period may be extended under the provisions of 37 CFR 1.136(a)), and be accompanied by the items specified in 37 CFR 1.705(b)(1) and (b)(2); or (2) the requirement of 35 U.S.C. 154(b)(4) that an applicant dissatisfied with the Director's decision on the applicant's request for reconsideration under 35 U.S.C. 154(b)(3)(B)(ii) shall have exclusive remedy by a civil action against the Director filed in the United States District Court for the Eastern District of Virginia within 180 days after the date of the Director's decision on the applicant's request for reconsideration under 35 U.S.C. 154(b)(3)(B)(ii). In other words, nothing in this final rule excuses patentees from having to meet the time limitations set forth in 37 CFR 1.705 or 35 U.S.C. 154(b)(4) in effect at the time of the patent's issuance in order to challenge any patent term adjustment under 37 CFR 1.702 *et seq.* regarding the issues addressed in this final rule.

As discussed previously, the patent term adjustment statutory provision also includes the provision that ''[t]he period of adjustment of the term of a patent under [35 U.S.C. 154(b)(1)] shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application,'' and that ''[t]he Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.'' *See* 35 U.S.C. 154(b)(2)(C)(i) and (iii). Under the authority provided in 35 U.S.C. 154(b)(2)(C)(iii), the Office is revising the rules of practice to establish that the submission of a request for continued examination after any notice of allowance has been mailed constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. This provision has been adopted to ensure that an applicant does not obtain additional patent term adjustment under 35 U.S.C. 154(b)(1)(B) for the time after a notice of allowance has been mailed as a consequence of delaying issuance of the patent by filing a request for continued examination under 35 U.S.C. 132(b) after a notice of allowance has been mailed.

Discussion of Specific Rules

The following is a discussion of amendments to title 37 of the Code of Federal Regulations, Part 1:

Section 1.703: Section 1.703(b)(1) is amended to provide that the time consumed by continued examination of the application under 35 U.S.C. 132(b) is the number of days, if any, in the period beginning on the date on which any request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151. If a first request for continued examination is filed before a notice of allowance has been mailed and a second request for continued examination is filed after a notice of allowance has been mailed, the time consumed by continued examination of the application under 35 U.S.C. 132(b) is the number of days in the period beginning on the date on which the first request for continued examination was filed and ending on the date of mailing of the notice of allowance following the first request for continued examination, plus the number of days in the period beginning on the date on which the second request for continued examination was filed and ending on the date of mailing of the notice of allowance following the second request for continued examination. If a second request for continued examination is filed without a notice of allowance having been mailed between the filing of the first and second requests for continued examination and a notice of allowance is mailed after the second request for continued examination, the time consumed by continued examination of the application under 35 U.S.C. 132(b) is the number of days in the period beginning on the date on which the first request for continued examination was filed and ending on the date of mailing of the notice of allowance.

Section 1.704: Section 1.704(c)(10) is amended to change ''other paper'' to ''other paper, other than a request for continued examination in compliance with § 1.114,'' to clarify that the filing of a request for continued examination under 35 U.S.C. 132(b) in compliance with § 1.114 is treated under § 1.704(c)(12) rather than § 1.704(c)(10).

Section 1.704(c)(12) is amended to include a new provision that establishes the submission of a request for continued examination under 35 U.S.C. 132(b) after any notice of allowance under 35 U.S.C. 151 has been mailed as constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of mailing of the notice of allowance under 35 U.S.C. 151 and ending on the date the request for continued examination under 35 U.S.C. 132(b) was filed. As discussed previously, this provision has been adopted to ensure that an applicant does not obtain additional patent term adjustment under 35 U.S.C. 154(b)(1)(B) for the time after a notice of allowance has been mailed as a consequence of delaying issuance of the patent by filing a request for continued examination under 35 U.S.C. 132(b) after a notice of allowance has been mailed. Moreover, the filing of a request for continued examination after the mailing of a notice of allowance removes the application from the issue process, prevents the Office from issuing the patent, and requires the Office to determine if the submission affects the patentability of the application, which adds to the pendency of the application in which the request for continued examination is

filed (as well as other applications since examination resources must be diverted from other applications to the application in which the request for continued examination is filed).

Section 1.704(c)(13) is amended and § 1.704(c)(14) is added to include the provisions of §§ 1.704(c)(12) and (c)(13), respectively.

Section 1.704(d) is amended to also provide that a request for continued examination in compliance with § 1.114 with submission of only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704(c)(12), if the request for continued examination under 35 U.S.C. 132(b) is accompanied by the statement provided for in § 1.704(d).

The Office has a pilot program that reduces the need for processing a request for continued examination with an information disclosure statement filed after payment of the issue fee in order for the information disclosure statement to be considered by the examiner. *See Quick Path Information Disclosure Statement (QPIDS) Pilot Program,* 77 FR 27443 (May 10, 2012). Applicants are encouraged to use the QPIDS program when submitting an information disclosure statement after payment of the issue fee, but an applicant may file a request for continued examination with an information disclosure statement and statement under § 1.704(d) without submitting the request for continued examination and information disclosure statement via the QPIDS program. An applicant submitting an information disclosure statement filed after payment of the issue fee via the QPIDS program should also include the statement under § 1.704(d) (if appropriate) with the conditional request for continued examination submitted in accordance with the QPIDS program.

Comments and Responses to Comments: The Office received eight written comments from intellectual property organizations, industry, a law firm, individual patent practitioners, and the general public in response to the *Novartis* notice of proposed rulemaking. The comments and the Office's responses to those comments follow:

Comment 1: Several comments suggest that ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' under 35 U.S.C. 154(b)(1)(B)(i) does not include the date of mailing of a notice of allowance, citing *Novartis,* 740 F.3d at 601 *et seq.*

Response: The Federal Circuit decision in *Novartis* does not specifically state whether the date of mailing of a notice of allowance is considered part of the ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' within the meaning of 35 U.S.C. 154(b)(1)(B)(i). The Federal Circuit decision in *Novartis* simply discusses the time period ''before allowance'' and the ''time after allowance, until issuance.'' *See Novartis,* 740 F.3d at 602 (''we reject the PTO's view that the time after allowance, until issuance, is 'time consumed by continued examination' '' and '' 'time consumed by continued examination' . . . is time up to allowance, but not later'') (emphasis added). The mailing of the notice of allowance is the action which concludes examination of the application and closes prosecution of the application. *See id.* (' 'examination' presumptively ends at allowance, when prosecution is closed and there is no further examination on the merits. . . .'') (emphasis added). Thus, it is appropriate to consider the ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' as including the date of mailing of the notice of allowance in an application that has been allowed after the filing of a request for continued examination.

In addition, treating the period of ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' as ending on the date on which a notice of allowance is mailed (rather than the day before the date on which a notice of allowance is mailed) is consistent with how the Office treats the date on which a patent issues for purposes of 35 U.S.C. 154(b)(1)(A)(iv) (four months to issue patent term adjustment provision) and 154(b)(1)(B) (the three-year pendency patent term adjustment provision). Specifically, the Office treats the four-month period in 35 U.S.C. 154(b)(1)(A)(iv) and the three-year period in 35 U.S.C. 154(b)(1)(B) as ending on the date the patent issues (rather than day before date the patent issues), even though the patent has been granted and is in force on the date the patent issues.

Comment 2: Several comments oppose the provision in proposed § 1.703(b)(1) that if prosecution in the application is reopened, the period under § 1.702(b) does not include the period between the reopening of prosecution and the date of mailing of a subsequent notice of allowance. The comments suggest that the period under § 1.702(b) should include any period of post-allowance examination unless the reopening of prosecution is in response to a request for continued examination, or at least that the period of adjustment under § 1.702(b) should include any period of post-allowance examination due to the Office *sua sponte* reopening prosecution.

Response: Section 1.703(b)(1) as adopted in this final rule provides that the time consumed by continued examination of the application under 35 U.S.C. 132(b) is the number of days, if any, in the period beginning on the date on which any request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151. Thus, any period of examination after the mailing of a notice of allowance resulting from the filing of a subsequent request for continued examination would be considered ''time consumed by continued examination,'' but a period of examination after the mailing of a notice of allowance resulting from the Office *sua sponte* reopening prosecution would not be considered ''time consumed by continued examination'' (unless the applicant subsequently files a request for continued examination).

Comment 3: One comment suggests that there is no basis for treating a second or subsequent request for continued examination after a notice of allowance as ''time consumed by continued examination of the application requested by the applicant under section 132(b),'' arguing that the *Novartis* court did not consider second or third requests for continued examination to be continued examination. The comment alternatively suggests that a second or subsequent request for continued examination after a notice of allowance should not be treated as ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' unless the request for continued examination results in the mailing of an Office action under 35 U.S.C. 132. One comment states that it is not clear why ''time consumed by continued examination'' is defined in such a way as to include non-contiguous periods of exclusion in certain circumstances where prosecution is reopened.

Response: 35 U.S.C. 154(b)(1)(B)(i) provides that the period under 35 U.S.C. 154(b)(1)(B) does not include ''any time consumed by continued examination of the application requested by the applicant under section 132(b)'' (emphasis added). There is no basis for

treating a second or subsequent request for continued examination differently than the first request for continued examination with respect to period between the filing of the request for continued examination and a notice of allowance being considered ''time consumed by continued examination of the application requested by the applicant under section 132(b).'' The Federal Circuit decision in *Novartis* did not state that this time ''consumed by continued examination of the application'' under 35 U.S.C. 154(b)(1)(B)(i) includes only the time consumed by a first request for continued examination, or includes the time consumed by a request for continued examination only if the Office issues an Office action under 35 U.S.C. 132.

Treating a second or subsequent request for continued examination as not being ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' unless the Office issues an Office action under 35 U.S.C. 132 in response to the request for continued examination would not be consistent with the statutory framework of 35 U.S.C. 131, 132, and 151. 35 U.S.C. 131 provides for examination of patent applications, specifically stating that ''[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.'' 35 U.S.C. 131. Thus, examination has two possible outcomes: Namely, if ''on such examination it appears that the applicant is entitled to a patent under the law,'' the Office issues a notice of allowance under 35 U.S.C. 151; however, if ''on such examination'' it does not appear that the applicant is entitled to a patent under the law, the Office issues a notice (Office action) under 35 U.S.C. 132 specifying the reasons why it does not appear that the applicant is entitled to a patent under the law. *See* 35 U.S.C. 132(a) (''Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application''). Thus, the time period between a request for continued examination and a notice of allowance is ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' regardless of whether the Office issues an Office action under 35 U.S.C. 132.

Finally, § 1.703(b)(1) as adopted in this final rule does not ''define'' ''time consumed by continued examination'' as generally or necessarily including non-contiguous periods. The ''time consumed by continued examination'' as measured by § 1.703(b)(1) will include non-contiguous periods if the applicant files a request for continued examination after a notice of allowance is mailed because the ''time consumed by continued examination'' includes non-contiguous periods if the applicant files a request for continued examination after a notice of allowance is mailed.

Comment 4: One comment questions how an application will be treated when multiple consecutive notices of allowance (*e.g.,* a notice of allowance and then a supplemental notice of allowance) are mailed.

Response: The Office issues a notice of allowability (PTOL–37) and a notice of allowance (PTOL–85) when an application is in condition for allowance. The Office rarely issues multiple consecutive notices of allowance (PTOL–85) (*e.g.,* a notice of allowance and then a supplemental notice of allowance). In the rare situation in which the Office issues multiple consecutive notices of allowance (PTOL–85), the ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' is the number of days, if any, in the period beginning on the date on which a request for continued examination was filed and ending on the date of mailing of the first notice of allowance (PTOL–85).

The Office does occasionally mail or issue multiple consecutive notices of allowability (PTOL–37) (*e.g.,* a notice of allowability and then a supplemental notice of allowability). In these situations, the ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' is the number of days, if any, in the period beginning on the date on which a request for continued examination was filed and ending on the date of mailing of the notice of allowance (PTOL–85), regardless of whether the notice of allowability (PTOL–37) and notice of allowance (PTOL–85) are mailed or issued on different days, and also regardless of whether the Office has issued multiple consecutive notices of allowability (PTOL–37).

Comment 5: Several comments oppose the provisions of proposed § 1.704(c)(12) stating that applicants must file a request for continued examination when they become aware of prior art after allowance that must be submitted to the Office to comply with § 1.56. The comments further state that applicants often cannot make the statement required by § 1.97(e), and that the QPIDS program is a pilot program and thus there is no certainty that it will continue. One comment further states that an applicant who may be able to make the statement required by § 1.704(d) does not necessarily have the option of filing an information disclosure statement after allowance without filing a request for continued examination, and suggests that the Office apply the ''safe harbor'' provision under § 1.704(d) to proposed § 1.704(c)(12). One comment suggests that the Office should make the QPIDS pilot program permanent, and one comment suggests that the Office should provide for the filing of an information disclosure statement after payment of the issue fee without the need for filing of a request for continued examination.

Response: As discussed previously, the mailing of a notice of allowance under 35 U.S.C. 151 concludes the examination process and starts the process of preparing the application for issuance as a patent. The AIPA patent term adjustment final rule defined the submission of an amendment under § 1.312 or other paper (which would include a request for continued examination) after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application (codified in § 1.704(c)(10)) because the submission of amendments (or other papers) after an application is allowed causes substantial interference with the patent issue process. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56373 (discussion of § 1.704(c)(10)). The filing of a request for continued examination after the mailing of a notice of allowance removes the application from the issue process, prevents the Office from issuing the patent, and requires the Office to determine if the submission affects the patentability of the application, which adds to the pendency of the application in which the request for continued examination is filed (as well as other applications since examination resources must be diverted from other applications to the application in which the request for

continued examination is filed). As further indicated in the AIPA patent term adjustment final rule, ''[a]n applicant who is engaging in actions or inactions that prevent or interfere with the Office's ability to process or examine an application cannot reasonably be characterized as 'engag[ing] in reasonable efforts to conclude processing or examination of an application' (35 U.S.C. 154(b)(2)(C)(i)).'' *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56379 (response to comment 17). Therefore, the Office considers it appropriate to expressly define the filing of a request for continued examination after the mailing of any notice of allowance as a failure to engage in reasonable efforts to conclude processing or examination of an application. *See* 35 U.S.C. 154(b)(2)(C)(iii) (provides for the Office to prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application).

Nevertheless, the AIPA patent term adjustment final rule also indicates that the Office considers it appropriate to permit applicants to submit information cited in a patent office communication in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is submitted to the Office within thirty days (not three months) of the date the patent office communication was received by an individual designated in § 1.56(c). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56385 (response to comment 36). Section 1.704(d) was thus adopted in the AIPA patent term adjustment final rule to permit applicants to file an information disclosure statement promptly without a reduction of patent term adjustment. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56373 (discussion of § 1.704(d)). The Office is therefore revising § 1.704(d) in this final rule to provide that a request for continued examination in compliance with § 1.114 with no submission other than an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704(c)(12), if the request for continued examination is accompanied by a statement in compliance with § 1.704(d).

With respect to the suggestions that the Office make the QPIDS pilot program permanent and provide for the filing of an information disclosure statement after payment of the issue fee without the need for filing of a request for continued examination, the Office is currently studying the results of the QPIDS pilot program and other mechanisms for considering information disclosure statements submitted after payment of the issue fee.

Comment 6: Several comments state that the provisions of proposed § 1.704(c)(12) should apply only when there is patent term adjustment under 35 U.S.C. 154(b)(1)(B) (under the ''B'' provision), and should not apply to patent term adjustment under 35 U.S.C. 154(b)(1)(A) or 154(b)(1)(C) (under the ''A'' or ''C'' provision). One comment states that 35 U.S.C. 154(b)(2)(C)(ii) applies only to patent term adjustment under 35 U.S.C. 154(b)(1)(B), and thus applicant delays that may be deducted from the total patent term adjustment are only those that occur at the same time that Office delays would otherwise be included in the calculation of patent term adjustment. The comment suggests that § 1.704(b) should be revised to indicate that patent term adjustment is not reduced by applicant delays arising after the filing of a request for continued examination, since 35 U.S.C. 154(b)(2)(C)(ii) applies only to patent term adjustment under 35 U.S.C. 154(b)(1)(B).

Response: The current provisions of § 1.704(b) were adopted in the AIPA patent term adjustment final rule. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56370–71 and 56393 (discussion of § 1.704(b) and § 1.704(b)). The Office did not propose any amendment to § 1.704(b) in the *Novartis* notice of proposed rulemaking. 35 U.S.C. 154(b)(C)(ii) provides that, with respect to adjustments to patent term made under 35 U.S.C. 154(b)(1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request. 35 U.S.C. 154(b)(C)(iii), however, further provides that the Office shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Thus, 35 U.S.C. 154(b)(2)(C)(ii) cannot be considered exhaustive of the circumstances for which an applicant may be determined to have failed to engage in reasonable efforts to conclude processing or examination of an application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56381 (response to comment 28). Under the authority in 35 U.S.C. 154(b)(2)(C)(iii), § 1.704(b) as adopted in the AIPA patent term adjustment final rule established failure to respond to a notice from the Office making any rejection, objection, argument, or other request within three months as a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application with respect to patent term adjustment under §§ 1.702(a) through (e) (corresponding to the grounds for patent term adjustment under 35 U.S.C. 154(b)(1)(A) through (C)). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56370 (discussion of § 1.704(b)).

35 U.S.C. 154(b) provides that the period of patent term adjustment under 35 U.S.C. 154(b)(1) ''shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.'' *See* 35 U.S.C. 154(b)(2)(C)(i). 35 U.S.C. 154(b)(1)(C)(i) does not require the applicant's action or inaction (that amounts to a failure to engage in reasonable efforts to conclude prosecution of the application) to have caused or contributed to patent term adjustment for the period of adjustment to be reduced due to such action or inaction. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56379 (response to comment 18). The patent term adjustment provisions of 35 U.S.C. 154(b) create a balanced system allowing for patent term adjustment due to Office delays for a reasonably diligent applicant. *Id.* Since the public has an interest in the technology disclosed and covered by a patent being available to the public at the earliest possible date, it is appropriate to reduce patent term adjustment by any period of time during which applicant failed to engage in reasonable efforts to conclude prosecution of the application, regardless of whether the applicant's actions or inactions caused or contributed to patent term adjustment. *Id.*

Comment 7: One comment opposes the provisions of proposed § 1.704(c)(12) stating that the proposed rule undermines the three-month statutory period applicant has to review the application and pay the issue fee, and is inconsistent with the ''deduction

free'' three-month response periods permitted in 35 U.S.C. 154(b)(2)(C)(ii).

Response: 35 U.S.C. 151 provides a three-month period for an applicant to pay the issue fee (or permit an application to become abandoned for failure to pay the issue fee). That applicants also use this three-month period for other purposes does not mean that the three-month period in 35 U.S.C. 151 is designed for those purposes. In addition, 35 U.S.C. 154(b)(2)(C)(ii) does not provide ''deduction free'' three-month response periods, but rather defines a failure to reply to any Office action or notice within three months as a *per se* failure to engage in reasonable efforts to conclude processing or examination of an application (subject to reinstatement under 35 U.S.C. 154(b)(3)(C)). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56389 (response to comment 51). As discussed previously, 35 U.S.C. 154(b)(2)(C)(iii) authorizes (or requires) the Office to prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. In any event, a request for continued examination is not, strictly speaking, a ''response'' to a notice of allowance. *See* 35 U.S.C. 151 (''The notice [of allowance] shall specify a sum, constituting the issue fee and any required publication fee, which shall be paid within 3 months thereafter. . . . Upon payment of this sum, the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned.'').

Comment 8: One comment opposing the provisions of proposed § 1.704(c)(12) states that proposed § 1.704(c)(12) is unnecessary as multiple requests for continued examination are filed in only a low percentage of applications, and that applicants have a ''legal right'' to file multiple requests for continued examination. The comment further states that proposed § 1.704(c)(12) is unwarranted as it treats requests for continued examination filed after allowance differently from requests for continued examination filed prior to allowance.

Response: Section 1.114 currently permits applicants to file multiple requests for continued examination and requests for continued examination after a notice of allowance has been mailed. *See Request for Continued Examination Practice and Changes to Provisional Application Practice,* 65 FR 50092, 50095–96 (Aug. 16, 2000) (comparing the request for continued examination practice as implemented in § 1.114 with the transitional procedure in § 1.129(a)). There is, however, a distinction between permitting an applicant to take an action (or engage in an inaction) and treating that action or inaction as not being failure to engage in reasonable efforts to conclude processing or examination of an application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56379 (response to comment 17) (that conduct is permitted by the rules of practice does not imply that such conduct is not a failure to engage in reasonable efforts to conclude processing or examination of an application); *see also Changes to Implement the Patent Law Treaty,* 78 FR 62368, 62384–85 (Oct. 21, 2013) (revising patent term adjustment provisions to define delays newly permitted by the Patent Law Treaty and Patent Law Treaties Implementation Act of 2012 (Pub. L. 112–211, 126 Stat. 1527 (2012)) as a failure to engage in reasonable efforts to conclude processing or examination of an application). In addition, while multiple requests for continued examination are filed in a relatively low percentage of applications, even a low percentage of activity represents thousands of applications (and patents) in view of the number of applications filed in the Office each year. In any event, that only a few applicants engage in actions or inactions that are a failure to engage in reasonable efforts to conclude processing or examination of an application does not justify excusing such applicants from the patent term adjustment consequences of their actions or inactions.

Finally, requests for continued examination filed after allowance are treated differently from requests for continued examination filed prior to allowance because applications in which a notice of allowance has been mailed are ready to be issued as a patent (subject to the applicant paying the issue fee in a timely manner). As discussed previously, the filing of a request for continued examination after the mailing of a notice of allowance removes the application from the issue process and prevents the Office from issuing the patent, which adds to the pendency of the application as well as the pendency of other applications since examination resources must be diverted from other applications to the application in which the request for continued examination was filed after a notice of allowance was filed.

Comment 9: One comment opposing the provisions of proposed § 1.704(c)(12) states that requests for the Office to correct matters in a notice of allowability (such as an error in the claims or the failure of the Office to provide an initialed copy of an information disclosure statement) or to respond to an amendment under § 1.312 before payment of the issue fee should not be held against applicant if applicant files a request for continued examination to have such addressed.

Response: A request for continued examination should never be filed simply to obtain correction of a notice of allowability or a response to an amendment under § 1.312. An applicant may simply call the examiner to obtain the correction (such as a supplemental notice of allowability correctly indicating the allowed claims or an initialed copy of an information disclosure statement) or a response to the amendment under § 1.312 (or call the supervisory patent examiner or technology center director if the call to the examiner is unavailing). Applicants should note that filing an amendment under § 1.312 is defined as a failure to engage in reasonable efforts to conclude prosecution of the application, and will result in a reduction of any patent term adjustment, under § 1.704(c)(10).

Comment 10: One comment opposing the provisions of proposed § 1.704(c)(12) states that the filing of a request for continued examination is already a ''reduction'' from any patent term adjustment under 35 U.S.C. 154(b)(1)(B) (the ''B'' provision) and would now be an additional reduction of patent term adjustment under § 1.704(c)(12).

Response: The provisions of 35 U.S.C. 154(b)(1)(B)(i) through (iii) are not a ''reduction'' of patent term adjustment. Rather, 35 U.S.C. 154(b)(1)(B)(i) through (iii) simply define periods that are not included in determining whether and by how much the pendency of an application has exceeded the three-year period specified in 35 U.S.C. 154(b)(1)(B). Under §§ 1.703 and 1.704 as adopted in this final rule, if a request for continued examination is filed after any notice of allowance was mailed, any patent term adjustment would be reduced by the number of days in the period starting on the day after the date of mailing of the notice of allowance and ending on the date the request for continued examination was filed as provided in § 1.704(c)(12), and the period between the date the request for continued examination was filed and the date of mailing of the subsequent notice of allowance would not be included in determining whether and by how much the pendency of an application has exceeded the three-year period specified in 35 U.S.C. 154(b)(1)(B).

Comment 11: One comment opposing the provisions of proposed § 1.704(c)(12) states that proposed § 1.704 is unclear as to how it would work if a request for continued examination is filed after payment of the issue fee.

Response: If a request for continued examination is filed after payment of the issue fee, any patent term adjustment would be reduced by the number of days in the period starting on the day after the date of mailing of the notice of allowance and ending on the date the request for continued examination was filed.

35 U.S.C. 154(b)(1)(A)(iv) provides that, subject to the limitations under 35 U.S.C. 154(b)(2), if the issue of an original patent is delayed due to the failure of the Office to issue a patent within four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, the term of the patent shall be extended one day for each day after the date on which the issue fee was paid and all outstanding requirements were satisfied until the patent is issued. Thus, the period of adjustment under 35 U.S.C. 154(b)(1)(A)(iv), if any, is ascertained by looking back from the issue date to the most recent time at which the issue fee or another requirement was outstanding, determining the succeeding date on which the issue fee was paid and all outstanding requirements were satisfied, and measuring the number of days, if any, in the period beginning on the day after the date that is four months after such date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued. Where prosecution in an application is reopened after a notice of allowance (before or after payment of the issue fee), either by the Office *sua sponte* or as the result of an applicant filing a request for continued examination, the date on which the issue fee was paid and all outstanding requirements were satisfied is the date on which the Issue Fee Transmittal Form (PTOL–85(b)) from the ultimate notice of allowance under 35 U.S.C. 151 is returned to the Office (or a later date if there remain additional outstanding requirements, such as payment of any additional fees owed or required drawings to be submitted). *See* Manual of Patent Examining Procedure (MPEP) 2731. The mailing of a notice of allowance by the Office subsequent to the reopening of prosecution is the Office's indication that the application is (again) in condition to be issued as a patent, and the applicant's return of the Issue Fee Transmittal Form (PTOL–85(b)) is the applicant's indication or confirmation that the applicant wants any previously paid issue fee to be applied as the issue fee for the patent. *See* MPEP 1306 (''[i]f an issue fee has previously been paid in the application as reflected in the Notice of Allowance, the return of Part B (Fee(s) Transmittal form) will be considered a request to reapply the previously paid issue fee toward the issue fee that is now due''). Thus, if prosecution in an application is reopened after a notice of allowance as the result of an applicant filing a request for continued examination, the date on which the issue fee was paid and all outstanding requirements were satisfied is the date on which the Issue Fee Transmittal Form (PTOL–85(b)) from the ultimate notice of allowance under 35 U.S.C. 151 is returned to the Office (or a later date if there remain additional outstanding requirements, such as payment of any additional fees owed or required drawings to be submitted). Applicants should note that § 1.114 does not permit an applicant to file a request for continued examination under 35 U.S.C. 132(b) after the date the issue fee is paid as a matter of right. *See* § 1.114(a)(1).

Comment 12: One comment states that the date of mailing of a notice of allowance should not be included in § 1.704(c)(12) if it is excluded in § 1.703(b)(1).

Response: Section 1.704(c)(12) as adopted in this final rule provides that the period of reduction begins on the ''day after the date'' of mailing of a notice of allowance under 35 U.S.C. 151.

Comment 13: One comment questions whether the proposed change to § 1.703 and § 1.704 will be ''retroactive,'' how existing petitions are being treated under *Novartis,* and whether there will be any interim procedure to request recalculation under *Novartis.* Several comments suggest that the proposed change to § 1.704 should only be applied prospectively if it is adopted.

Response: The changes to § 1.703 in this final rule apply to any patent granted before, on, or after January 9, 2015. However, nothing in this final rule excuses or supersedes the timing requirements set forth in § 1.705 regarding requests for reconsideration of patent term adjustment for patents granted before, on, or after January 9, 2015. The Office has been deciding requests for reconsideration of a patent term adjustment timely filed pursuant to § 1.705 consistent with the Federal Circuit decision in *Novartis* since January 15, 2014 (the date the Federal Circuit issued its decision in *Novartis*).

As discussed in the final rule to implement the patent term adjustment provisions of the Leahy-Smith America Invents Act Technical Corrections Act (Pub. L. 112–274, 126 Stat. 2456 (2013)), because of the change to the time period for requesting reconsideration of a patent term adjustment determination adopted in that final rule, the Office is not adopting *ad hoc* procedures for requesting a patent term adjustment recalculation specifically directed to the Federal Circuit decision in *Novartis. See Revisions to Implement the Patent Term Adjustment Provisions of the Leahy-Smith America Invents Act Technical Corrections Act,* 79 FR 27755, 27759 (May 15, 2014) (discussion of Federal Circuit decision in *Novartis*).

The changes to 37 CFR 1.704 in this final rule apply only to applications in which a request for continued examination after a notice of allowance is filed on or after March 10, 2015.

Comment 14: One comment states that the Office should amend § 1.704(d) to provide a way to submit an information disclosure statement without any reduction of patent term adjustment when the failure to submit the information disclosure statement within the thirty-day time period provided in § 1.704 was unintentional.

Response: That a delay is ''unintentional'' may be an appropriate standard for the revival of an abandoned application (35 U.S.C. 27) or acceptance of a delayed maintenance fee (35 U.S.C. 41(c)), it is not an appropriate standard for the reinstatement of reduced patent term adjustment. *See* § 1.703(c)(2)(defining abandonment of an application as a failure to engage in reasonable efforts to conclude processing or examination of an application notwithstanding that an application may be revived if the delay is shown to have been unintentional). Patent term adjustment reduced under 35 U.S.C. 154(b)(2)(C) may be reinstated only if the applicant makes a showing that, ''in spite of all due care,'' the applicant was unable to respond within the three-month period set forth in 35 U.S.C. 154(b)(2)(C). *See* 35 U.S.C. 154(b)(3)(C). The ''in spite of all due care'' standard in 35 U.S.C. 154(b) is significantly more stringent than the ''unintentional'' delay standard of 35 U.S.C. 27 and 41(c). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 56389 (response to comment 51) (discussing the ''in spite of all due care'' standard of 35 U.S.C. 154(b)(3)(C)). Thus, reinstatement of reduced patent term adjustment solely on the basis of ''unintentional'' delay would not be appropriate.

Comment 15: One comment questions whether the filing of a request for continued examination was also considered a failure under § 1.703(c)(10).

Response: The Office has, as a matter of practice, not treated the filing of a request for continued examination as a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application under § 1.703(c)(10). The Office is revising § 1.703(c)(10) in this final rule to add ''other than a request for continued examination in compliance with § 1.114,'' to clarify that the filing of a request for continued examination under 35 U.S.C. 132(b) in compliance with § 1.114 is treated under § 1.704(c)(12) rather than § 1.704(c)(10).

Comment 16: One comment opposing the provisions of proposed § 1.704(c)(12) states that the Federal Circuit decision in *Novartis* does not permit the Office to treat applicant actions after a notice of allowance as a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application unless the action results in the resumption of examination. The comment requests that the Office clarify what applicant actions after a notice of allowance constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

Response: The regulations setting out the circumstances that are considered a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application in § 1.704 are authorized by 35 U.S.C. 154(b)(2)(C)(iii). *See* 35 U.S.C. 154(b)(2)(C)(iii) (''The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application''). The provisions of 35 U.S.C. 154(b)(2)(C) and § 1.704(c) were not at issue in *Novartis.* Rather, the provisions of 35 U.S.C. 154(b)(1)(B) and § 1.703(b) were at issue in *Novartis.* The Federal Circuit in *Novartis* held that the period between the mailing of a notice of allowance and the issue of the patent was not ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' under 35 U.S.C. 154(b)(1)(B)(i), unless action is taken to actually resume examination after allowance. *Novartis,* 740 F.3d at 602. That an action (or inaction) by the applicant after the allowance of an application does not result in examination, and is thus not ''time consumed by continued examination of the application requested by the applicant under section 132(b)'' under 35 U.S.C. 154(b)(1)(B)(i), does not imply that an action (or inaction) by the applicant after the allowance of an application cannot be defined in § 1.704 as a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application under the authority provided in 35 U.S.C. 154(b)(2)(C)(iii).

Section 1.704(c)(10), as adopted in the AIPA patent term adjustment final rule, provides that the circumstances constituting a ''failure to engage in reasonable efforts to conclude processing or examination of an application'' include submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (1) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (2) four months.

All new patent applications are now scanned into the Office's Image File Wrapper (IFW) system, and all processing and examination of these applications is conducted using electronic images instead of the paper source documents. This process permits multiple employees to view the IFW file of an application concurrently, which has reduced processing delays in patent issuance for certain papers filed after the mailing of the notice of allowance. In view of the changes that have been brought about by the electronic filing and processing of patent applications, the Office is clarifying what papers may be submitted after a notice of allowance without the applicant being considered to have failed to engage in reasonable efforts to conclude processing or examination of the application under § 1.704(c)(10). Specifically, the submission of the following papers after a notice of allowance will not be considered a failure to engage in reasonable efforts to conclude processing of examination of the application under § 1.704(c)(10): (1) An Issue Fee(s) Transmittal (PTOL–85B); (2) a power of attorney; (3) a power to inspect; (4) a change of address; (5) a change of entity status (micro, small, non-small); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the ''Notice of Allowance'' or ''Notice of Allowability''; (7) status letters; (8) requests for a refund; (9) an inventor's oath or declaration; (10) an information disclosure statement with a statement in compliance with § 1.704(d); (11) the resubmission by applicant of unlocatable paper(s) previously filed in the application (§ 1.251); (12) a request for acknowledgment of an information disclosure statement in compliance with §§ 1.97 and 1.98, provided that the applicant had requested that the examiner acknowledge the information disclosure statement prior to the notice of allowance, or the request for acknowledgement was applicant's first opportunity to request that the examiner acknowledge the information disclosure statement; (13) comments on the substance of an interview where the applicant-initiated interview resulted in a notice of allowance; and (14) letters related to government interests (*e.g.,* those between NASA and the Office).

The Office previously indicated that three types of these papers (written status inquiries, requests for refund, an inventor's oath or declaration) were a type of after-allowance submission that would be considered a failure to engage in reasonable efforts to conclude processing and examination of the application. *See Clarification of 37 CFR 1.704(c)(10)* □ *Reduction of Patent Term Adjustment For Certain Types of Papers After a Notice of Allowance has been Mailed,* 1247 *Off. Gaz. Pat. Office* 111 (June 26, 2001); *see also* MPEP section 2732. The Office no longer considers submission of a written (or other type of) status inquiry, request for refund, or an inventor's oath or declaration to be a failure to engage in reasonable efforts to conclude processing and examination of the application under § 1.704(c)(10) due to the changes that have been brought about by the electronic filing and processing of patent applications.

The Office reminds applicants that the submission of other types of papers after a notice of allowance has been given or mailed constitutes a ''failure to engage in reasonable efforts to conclude processing or examination of an application'' in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (1) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (2) four months. *See* § 1.703(c)(10). An exemplary listing of such papers includes: (1) An amendment under § 1.312; (2) a paper containing a claim for priority or benefit or request to correct priority or benefit information (*e.g.,* a new or supplemental application data sheet filed to correct foreign or

domestic benefit information); (3) a request for a corrected filing receipt; (4) a certified copy of a priority document; (5) drawings; (6) a letter relating to biologic deposits; (7) a request to change or correct inventorship; and (8) an information disclosure statement not accompanied by a statement in compliance with § 1.704(d).

Rulemaking Considerations

A. *Administrative Procedure Act:* The amendments to 37 CFR 1.703 in this rulemaking to provide that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance has been mailed, unless the applicant files a request for continued examination after such allowance, simply implements the Federal Circuit's ruling on the provisions of 35 U.S.C. 154(b)(1)(B)(i) in *Novartis* that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance has been mailed, unless the Office actually resumes examination of the application after allowance. Therefore, the amendment to 37 CFR 1.703 eliminates any inconsistency with the Federal Circuit's determination and is simply a procedural and/or interpretive rule. *See Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims); *Nat'l Org. of Veterans' Advocates, Inc.* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive).

Accordingly, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law), with respect to the change to 37 CFR 1.703. *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'') (quoting 5 U.S.C. 553(b)(A)). The Office, however, published the change to 37 CFR 1.703 for comment as it sought the benefit of the public's views on the Office's implementation of the Federal Circuit's interpretation of the provisions of 35 U.S.C. 154(b)(1)(B)(i) in *Novartis.* Similarly, the change to 37 CFR 1.703, as a procedural and/or interpretive rule, is not subject to the requirement of 5 U.S.C. 553(d) and any delayed effective date.

B. *Regulatory Flexibility Act:* For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes adopted in this final rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The changes to the patent term adjustment provisions do not impose any additional requirements or fees on applicants. The change to 37 CFR 1.703 simply implements the Federal Circuit's ruling on the provisions of 35 U.S.C. 154(b)(1)(B)(i) in *Novartis* and reflects how patent term adjustment is now calculated. The change to 37 CFR 1.704 specifies that the submission of a request for continued examination under 35 U.S.C. 132(b) after any notice of allowance under 35 U.S.C. 151 has been mailed constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. This change will not have a significant economic impact on a substantial number of small entities because applicants are not entitled to patent term adjustment for examination delays that result from an applicant's delay in prosecuting the application (35 U.S.C. 154(b)(2)(C)(i) and 37 CFR 1.704(a)) and because applicants may avoid any consequences from this provision simply by refraining from filing a request for continued examination under 35 U.S.C. 132(b) after a notice of allowance under 35 U.S.C. 151 has been mailed. The Office received no public comment on this Regulatory Flexibility Act certification, or any of the sections under the Rulemaking Considerations, in the *Novartis* notice of proposed rulemaking.

For the foregoing reasons, the changes adopted in this final rule will not have a significant economic impact on a substantial number of small entities.

C. *Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. *Executive Order 13563 (Improving Regulation and Regulatory Review):* The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across Government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. *Executive Order 13132 (Federalism):* This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. *Executive Order 13175 (Tribal Consultation):* This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. *Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. *Executive Order 12988 (Civil Justice Reform):* This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. *Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. *Executive Order 12630 (Taking of Private Property):* This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. *Congressional Review Act:* Under the Congressional Review Act

provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808), the United States Patent and Trademark Office will submit a report containing any final rule resulting from this rulemaking and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office.

L. *Unfunded Mandates Reform Act of 1995:* The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. *National Environmental Policy Act:* This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. *National Technology Transfer and Advancement Act:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

O. *Paperwork Reduction Act:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. The rules of practice pertaining to patent term adjustment and extension have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) under OMB control number 0651–0020. The changes in this rulemaking would: (1) Provide that the time consumed by continued examination under 35 U.S.C. 132(b) does not include the time after a notice of allowance, unless the Office actually resumes examination of the application after allowance; and (2) provide that the submission of a request for continued examination under 35 U.S.C. 132(b) after any notice of allowance under 35 U.S.C. 151 has been mailed constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

This rulemaking does not add any additional requirements (including information collection requirements) or fees for patent applicants or patentees. Therefore, the Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this rulemaking do not affect the information collection requirements associated with the information collections approved under OMB control number 0651–0020 or any other information collections.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Section 1.703 is amended by revising paragraph (b)(1) to read as follows:

§ 1.703 Period of adjustment of patent term due to examination delay.

* * * * *

(b) * * *

(1) The number of days, if any, in the period beginning on the date on which any request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151;

* * * * *

■ 3. Section 1.704 is amended by revising paragraphs (c)(10), (12), and (13) and (d)(1) and adding paragraph (c)(14) to read as follows:

§ 1.704 Reduction of period of adjustment of patent term.

* * * * *

(c) * * *

(10) Submission of an amendment under § 1.312 or other paper, other than a request for continued examination in compliance with § 1.114, after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months;

* * * * *

(12) Submission of a request for continued examination under 35 U.S.C. 132(b) after any notice of allowance under 35 U.S.C. 151 has been mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date of mailing of the notice of allowance under 35 U.S.C. 151 and ending on the date the request for continued examination under 35 U.S.C. 132(b) was filed;

(13) Failure to provide an application in condition for examination as defined in paragraph (f) of this section within eight months from either the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is eight months from either the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application and ending on the date the application is in condition for examination as defined in paragraph (f) of this section; and

(14) Further prosecution via a continuing application, in which case the period of adjustment set forth in § 1.703 shall not include any period that is prior to the actual filing date of the application that resulted in the patent.

(d)(1) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section, and a request for continued examination in compliance with § 1.114 with no submission other than an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in

reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(12) of this section, if the paper or request for continued examination is accompanied by a statement that each item of information contained in the information disclosure statement:

(i) Was first cited in any communication from a patent office in a counterpart foreign or international application or from the Office, and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement; or

(ii) Is a communication that was issued by a patent office in a counterpart foreign or international application or by the Office, and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

* * * * *

Dated: December 17, 2014.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 2015–00061 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17 and 71

RIN 2900–AN94

Caregivers Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts, with changes, the interim final rule concerning VA's Program of Comprehensive Assistance for Family Caregivers. VA administers this program to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured during service on or after September 11, 2001. Also addressed in this rulemaking is the Program of General Caregiver Support Services that provides support services to caregivers of veterans from all eras who are enrolled in the VA health care system. Specifically, changes in this final rule include a requirement that Veterans be notified in writing should a Family Caregiver request revocation (to no longer be a Family Caregiver), an extension of the application timeframe from 30 days to 45 days for a Family Caregiver, and a change in the stipend calculation to ensure that Primary Family Caregivers do not experience unexpected decreases in stipend amounts from year to year.

DATES: *Effective Date:* This rule is effective on January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Michael Kilmer, Chief Consultant, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420, 202–461–6780. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose of the Final Rule

This final rule continues to implement title I of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163, which was signed into law on May 5, 2010. VA has been administering the benefits program under this law continuously since May 5, 2011, under an interim final rule published in the **Federal Register** (76 FR 26148) as well as part 71 of title 38, Code of Federal Regulations (CFR). The purpose of the benefits program under this law is to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured in the line of duty on or after September 11, 2001. Among other things, title I of the law established 38 U.S.C. 1720G, which requires VA to ''establish a program of comprehensive assistance for family caregivers of eligible veterans,'' as well as a program of ''general caregiver support services'' for caregivers of ''veterans who are enrolled in the health care system established under [38 U.S.C. 1705(a)] (including caregivers who do not reside with such veterans).'' 38 U.S.C. 1720G(a), (b).

II. Major Provisions

VA distinguishes between three types of caregivers based on the requirements of the law: Primary Family Caregivers, Secondary Family Caregivers, and General Caregivers. A Primary Family Caregiver is an individual designated as a ''primary provider of personal care services'' for the eligible veteran under 38 U.S.C. 1720G(a)(7)(A), who the veteran specifies on the joint application and is approved by VA as the primary provider of personal care services for the veteran. A Secondary Family Caregiver is an individual approved as a ''provider of personal care services'' for the eligible veteran under 38 U.S.C. 1720G(a)(6)(B), and generally serves as a back-up to the Primary Family Caregiver. General Caregivers are ''caregivers of covered veterans'' under the program in 38 U.S.C. 1720G(b), and provide personal care services to covered veterans, but do not meet the criteria for designation or approval as a Primary or Secondary Family Caregiver.

In general, caregivers receive the following benefits and services:

- General Caregivers—Education and training on caring for an enrolled Veteran; use of telehealth technologies; counseling and other services under § 71.50; and respite care.
- Secondary Family Caregivers—All benefits and services available to General Caregivers; monitoring; veteran-specific instruction and training; beneficiary travel under 38 CFR part 70; ongoing technical support; and counseling.
- Primary Family Caregivers—All benefits and services available to both General Caregivers and Secondary Family Caregivers; monthly caregiver stipend; respite care available for at least 30 days per year, and may exceed 30 days per year if clinically appropriate and if requested by the Primary Family Caregiver; and health care coverage (if they are eligible).

Some of these benefits are delivered directly to veterans, such as monitoring the quality of the care provided by caregivers to ensure that the veteran is able to live in a residential setting without unnecessary deterioration of his or her disability, and safe from potential abuse or neglect. Other benefits are delivered directly to the veteran's caregiver, such as a stipend or enrollment in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), which provides health coverage for certain Primary Family Caregivers. The fact that caregiver benefits are offered and delivered to both the veteran and his or her caregiver makes the benefits significantly different from virtually all other benefits programs offered through the Veterans Health Administration.

III. Costs and Benefits

Summary of Costs of the Caregiver Program for FY2015 Through FY2017

In developing the Regulatory Impact Analysis (RIA) for this final rule, VA did consider different alternative approaches on how best to regulate the statutory provisions of the law. More specifically, VA changed the formula and methodology to compute the caregiver stipend rate from the interim final rule. Individuals designated as the eligible Veteran's primary family caregiver are eligible to receive a monthly stipend from VA as an

acknowledgement of the sacrifices they make to care for seriously injured eligible Veterans. The monthly stipend is not intended to replace career earnings or be construed to create an employment relationship between VA and caregivers. Family caregivers report that the stipend is the cornerstone of the Program of Comprehensive Assistance for Family Caregivers. The stipend helps to alleviate financial distress experienced by many primary family caregivers.

VA never intended that Primary Family Caregivers should be subject to decreased stipend payments from year to year. Therefore, upon drafting the final rule and final RIA, VA changed the stipend calculation to use the most recent data from the BLS on hourly wage rates for home health aides as well as the most recent CPI–U, unless using this most recent data for a geographic area would result in an overall BLS and CPI–U combined rate that is lower than that applied in the previous year for the same geographic area, in which case the BLS hourly wage rate and CPI–U that was applied in the previous year for that geographic area will be utilized to calculate the Primary Family Caregiver stipend. This revision ensures that Primary Family Caregivers will not unexpectedly lose monetary assistance upon which they had come to rely. VA started applying the new stipend calculation on January 1, 2013 under the auspices of the interim final rule being finalized with this rulemaking.

The total costs associated with this final rulemaking, including the stipend, are estimated to be $477.0 million in FY2015 and $1.67 billion over a three year period. Estimated costs and revised projections are based on actual caseloads, actual obligations and historical trends/data since implementation of the Caregiver Program (July 2011) and through FY2014. For more specific costing information, VA's full RIA can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the final rulemaking document is published. Additionally, a copy of this final rulemaking and the RIA are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

On May 5, 2011, VA published in the **Federal Register** (76 FR 26148) an interim final rule to implement title I of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the Caregivers Act), Public Law 111–163, codified at 38 U.S.C. 1720G and in other sections of title 38, U.S.C. Interested persons were invited to submit comments on or before July 5, 2011, and we received 12 comments. All of the issues raised by the commenters that opposed at least one portion of the rule can be grouped together by similar topic, and we have organized our discussion of the comments accordingly. Based on the rationale set forth in the interim final rule and in this document, VA is adopting the provisions of the interim final rule, including the Part 17 amendment, as a final rule except as amended herein.

Distinguishing Levels of Assistance Provided, and To Whom, Under This Rule

To ensure that the varying levels of assistance and accompanying eligibility criteria under the rule are appropriately distinguished, we amend § 71.10(a) to refer to the ''Program of Comprehensive Assistance for Family Caregivers'' where eligibility and assistance of both Primary and Secondary Family Caregivers are concerned, and to refer to the ''Program of General Caregiver Support Services'' where eligibility and support services for General Caregivers are concerned. This is consistent with the manner in which these two programs are distinguished in 38 U.S.C. 1720G(a) and (b). We similarly amend § 71.10(b) to refer to ''Family Caregiver benefits'' and ''General Caregiver benefits'' authorized by 38 U.S.C. 1720G, and amend the definition of ''in the best interest'' in § 71.15 to refer to the ''Program of Comprehensive Assistance for Family Caregivers,'' instead of to the ''Family Caregiver program.'' We also revise the rule in multiple places to refer to ''caregiver'' as opposed to ''Caregiver'' for consistency in capitalization throughout Part 71. These amendments do not create any substantive changes in the application of any of the rule's provisions. Throughout this rulemaking, we refer to ''Family Caregivers'' as those individuals who may be provided ''Family Caregiver benefits'' through the ''Program of Comprehensive Assistance for Family Caregivers,'' and refer to ''General Caregivers'' as those individuals who may be provided ''General Caregiver benefits'' through the ''Program of General Caregiver Support Services.''

Additionally, we clarify that ''eligible veteran'' by definition under § 71.15 includes both a veteran and a servicemember who meet the eligibility criteria in § 71.20, and have amended the regulations to ensure that the phrase ''eligible veteran'' is used to refer to both veterans and servicemembers in any context in which eligibility under § 71.20 has been established, and that the terms ''veterans'' and ''servicemembers'' are used separately in any context in which eligibility under § 71.20 has not been established. Similarly, in the definition of ''primary care team'' we amend the reference to ''veteran'' to instead refer to ''patient'' for consistency throughout the definition. These amendments do not create any substantive changes in the application of any of the rule's provisions, and are made to §§ 71.15, and 71.45(b) and (b)(3).

Expanding Eligibility to Veterans Who Served Before September 11, 2001

Multiple commenters argued that eligibility for Family Caregiver benefits should be extended to veterans who served before September 11, 2001 (''pre-9/11 veterans''). The commenters asserted that pre- and post-9/11 veterans may require the same levels of personal care based on equally serious injuries, and that dates of service should therefore not dictate the level of benefits and services available. The eligibility distinction between pre-and post-9/11 veterans was mandated by Congress in section 1720G, and we lack authority to make the change suggested by these comments. See 38 U.S.C. 1720G(a)(2)(B).

Commenters emphasized that VA should comply with the Caregivers Act's reporting requirements on the feasibility and advisability of expanding Family Caregiver benefits to caregivers of pre-9/11 veterans. See Pub. L. 111–163, title I, section 101(d)(1). VA has complied with these reporting requirements, and on September 4, 2013, transmitted the Secretary's recommendations to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives. We note that any pre-9/11 veterans who are enrolled in the VA health care system, and those veterans' caregivers, are eligible to receive benefits and services that are available for General Caregivers, pursuant to §§ 71.30 and 71.40(a). General Caregiver benefits include: instruction, preparation, training, and technical support under § 71.40(a)(1); counseling and other services described under § 71.50; and respite care for a qualified veteran under § 71.40(a)(4). No application or clinical evaluation is required to obtain General Caregiver benefits. See 38 CFR 71.30(c).

Causal Link Between a Serious Injury and the Need for Personal Care Services

Family Caregiver eligibility is predicated, under § 71.20(c), on the veteran or servicemember having a ''serious injury [incurred or aggravated in the line of duty that] renders the individual in need of personal care

services.'' The definition of ''serious injury'' in § 71.15 similarly requires that the injury render the individual in need of personal care services. Commenters argued that this causal link is too restrictive because they assert that it excludes from eligibility an individual who needs personal care services because of an in-service injury that worsens after separation from service, or because of a condition that is secondary to a serious injury. To address these comments, we will discuss and clarify the meaning and effect of § 71.20(c); however, no changes to the rule are required.

Generally, we clarify that under § 71.20(c) a veteran or servicemember could qualify for Family Caregiver benefits if the veteran or servicemember incurred or aggravated a serious injury in the line of duty, even if the need for a Family Caregiver developed due to a worsening of that serious injury after separation from service, as long as all other § 71.20 criteria are met. Section 71.20 requires that a serious injury ''renders the individual in need of personal care services,'' but does not require that the injury must have rendered the veteran or servicemember in need of personal care services at the time of discharge. Therefore, VA does not and will not apply the rule in such a restrictive manner. However, we do not believe the definition of ''serious injury'' may be expanded to include injuries that are secondary to a serious injury incurred or aggravated in the line of duty, unless the need for personal care services caused by the secondary injury is proximately due to or the result of the serious injury incurred or aggravated in the line of duty. In the following discussion, we respond to specific examples provided by commenters concerning serious injuries incurred or aggravated in the line of duty that worsen or create a worsening of a condition after discharge from service, which the commenters believed should be considered qualifying serious injuries. We additionally respond to specific examples of injuries that are secondary to the serious injury incurred or aggravated in the line of duty, which commenters also believed should be considered qualifying serious injuries.

Commenters provided as examples variations of a scenario concerning an individual who sustained fragment wounds in the line of duty that did not create the need for personal care services on or before the date that the individual was discharged from active military service. After separation from service, however, the individual began to experience worsening of a condition, as a result of remaining imbedded fragments, that created the need for personal care services.

In one commenter's scenario, for example, the remaining imbedded fragments began to leach toxins inside the individual's body, and those toxins then caused a worsening of condition that created the need for personal care services. Such an individual would likely meet the criteria in § 71.20(c) because the fragment injury was a serious injury incurred in the line of duty, and this same serious injury created a worsening of the condition to render the individual in need of personal care services. As clarified above, this scenario fits within the criteria of § 71.20(c) because the need for personal care services may have developed post-discharge, but the serious injury that created the need for personal care services was still incurred or aggravated in the line of duty.

Another example provided by commenters described a scenario where an individual with the same type of fragment injury underwent surgery after separation from service to remove remaining imbedded fragments, but the effects of the surgery created the need for personal care services. This scenario is more complex, because the surgery created a secondary injury that lead to the need for personal care services. A scenario such as this requires a determination of whether the need for personal care services, which was created by the surgery after service, was proximately due to or the result of the fragment injury incurred in the line of duty. If the surgery was medically necessary because of the fragment injury, and the need for personal care services was, therefore, proximately due to or the result of the serious injury sustained by the fragments, the veteran could meet the § 71.20(c) criteria.

However, if surgery to remove such fragments was not medically necessary because of the fragment injury, we do not believe it would be as clear that the need for personal care services was proximately due to or the result of the fragment injury. A clinical assessment would have to be completed to determine whether it was the veteran's or servicemember's injury incurred in the line of duty that rendered him or her in need of personal care services, or whether the surgery caused a separate post-service injury without which the veteran or servicemember would not require personal care services. In addition, we distinguish the situation where the need for personal care services may be the result of a clinical provider's negligence in treating the qualifying serious injury. While we do not anticipate many of these cases occurring, we make this distinction because in one commenter's example a ''mishap'' occurred during surgery to remove imbedded fragments, which created the need for personal care services. Congress and VA did not design the Program of Comprehensive Assistance for Family Caregivers to provide benefits to a Family Caregiver based on a post-service injury, caused by a provider's negligence or other reasons that are not the direct result of the qualifying serious injury. Moreover, if a veteran underwent negligent surgery, either at a VA medical facility or from a private medical provider, there are other remedies designed to provide compensation to the veteran, such as a tort action or an award under 38 U.S.C. 1151 (benefits for disability or death that results from VA hospital care, medical or surgical treatment or examination).

One commenter provided a final example of a veteran who lost a leg during service, and after separation from service experienced a bad fall due to loss of balance. This bad fall resulted in a severe head injury, and the effects of the head injury, in turn, created the need for personal care services. It is similarly unclear in this example whether the need for personal care services was proximately due to or the result of the veteran's serious injury incurred in the line of duty, the loss of the leg. In this example as well, a clinical assessment would have to be completed to determine whether the veteran's loss of a leg rendered him or her in need of personal care services related to the head injury, or whether the head injury was a separate post-service injury without which the veteran would not require personal care services. We note that the veteran in this example could be eligible for caregiver benefits based on the personal care services that may be needed due to the loss of the leg, regardless of eligibility determinations concerning the fall and resulting need for personal care services due to the head injury.

We emphasize that addressing the specific examples from commenters with regards to the causal link in § 71.20(b)–(c) is intended to illustrate our general rationale, and that this discussion does not encompass all possible scenarios where a veteran with a qualifying serious injury may suffer a worsening of that injury after separation from service that, in turn, creates the need for personal care services. Nor does this discussion establish a required determination for or against a particular individual's eligibility for a Family Caregiver based on an injury that is secondary to a qualifying serious injury.

We stress that all individuals are independently assessed by a clinical team to determine eligibility for benefits, and reiterate that generally a veteran or servicemember could qualify for Family Caregiver benefits if the veteran or servicemember incurred or aggravated a serious injury in the line of duty, even if the need for a Family Caregiver developed after separation from service, as long as all other § 71.20 criteria are met.

Inclusion of the Term ''Illness'' in the Definition of ''Serious Injury''

Under § 71.15, a serious injury is defined as ''any injury, including traumatic brain injury, psychological trauma, or other mental disorder, incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001, that renders the veteran or servicemember in need of personal care services.'' Multiple commenters asserted that VA's definition of ''serious injury'' should be expanded to refer to and include the term ''illness'' (or variations of such term) for multiple reasons. We do not make any changes to refer to or include the term ''illness,'' as explained below.

First, commenters asserted that Congress intended ''illness'' to be considered as a qualifying criterion. However, the definition of ''serious injury'' is a virtually verbatim recitation of section 1720G(a)(2)(B) and the requirement in section 1720G(a)(2)(C) that the individual be ''in need of personal care services.'' Because section 1720G does not define the term ''serious injury'' to include illness, and the term ''illness'' does not appear elsewhere in title I of the Caregivers Act, we do not expand our definition of serious injury to include ''illness.''

Commenters provided examples of legislative history that they believe supports the assertion that Congress intended that ''illness'' should be considered in relation to eligibility for Family Caregiver assistance. We disagree with these interpretations of the legislative history. First, commenters correctly stated that the Caregiver Assistance and Resource Enhancement Act, H.R. 3155, 111th Congress, 1st Session (2009), as reported in the House of Representatives, would have established a program to provide specific caregiver benefits for certain disabled or ill veterans (certain veterans deemed to have a ''service-connected disability or illness that is severe''). While H.R. 3155 was engrossed by the House of Representatives, the bill was never considered by the Senate and consequently it failed to pass both houses of Congress. Instead, Congress enacted S. 1963, 111th Congress (2009), which specifically did not include the term ''illness'' in relation to eligibility for caregiver assistance and support services. We do not believe that the legislative history of a bill that did not pass must be used to inform the text of a bill that actually did pass, particularly when the text of both bills differed significantly—in particular, on the very point that the commenters wish to prove.

Multiple commenters cited the Explanatory Statement (joint statement) that accompanied the Caregivers Act to indicate that Congress intended that ''illness'' be considered in relation to eligibility for Family Caregiver assistance. See 156 Cong. Rec. S2566, S2567 (2010). Essentially, these commenters asserted that the joint statement indicates Congress' intent that the Program of Comprehensive Assistance for Family Caregivers should account for ''ill'' as well as ''injured'' veterans because that statement cited a Center for Naval Analyses report that considered the economic impact on caregivers of the seriously ill as well as seriously injured veterans. We disagree that the mere reference to a report that considered a broader cohort of ''ill'' individuals necessitates a more expansive interpretation of the narrower cohort of ''injured'' individuals actually described in the law passed by Congress. Moreover, the joint statement explains that the Caregivers Act will limit participation in the Program of Comprehensive Assistance for Family Caregivers ''only to 'seriously injured or very seriously injured' veterans.'' 156 Cong. Rec. S2567. Thus, the joint statement clearly expresses Congress' intent, under the Caregivers Act, to consider only seriously ''injured'' veterans as eligible for the Program of Comprehensive Assistance for Family Caregivers.

The joint statement explains that the House of Representatives and Senate versions of the caregiver program legislation were considered prior to enactment of the Caregivers Act. As explained in the joint statement, the House version's eligibility criteria accounted for ''OEF [Operation Enduring Freedom] or OIF [Operation Iraqi Freedom] veterans . . . who have a service-connected disability or illness that is severe.'' Id. However, the joint statement goes on to explain that the Senate bill's eligibility criteria, which do not account for veterans with a serious illness, will be reflected in the Caregivers Act. Id. ''[W]here the language under question was rejected by the legislature and thus not contained in the statute it provides an indication that the legislature did not want the issue considered.'' 2A Norman J. Singer, Sutherland Statutory Construction, section 48:04 (6th ed. 2000). Because it is clearly the Senate bill's eligibility criteria that became law, we do not agree with the commenters that VA must include ''illness'' in the definition of serious injury.

Commenters also stated that considering ''illness'' within the definition of ''serious injury'' is necessary to ensure consistency with other Federal government programs for recovering veterans and servicemembers which contemplate ''illness'' as a basis for eligibility. Examples of such programs, as provided by commenters, included the program of monetary compensation for certain servicemembers provided by DoD under 37 U.S.C. 439, and the Federal Recovery Coordination Program (FRCP). We make no changes based on these comments, as we do not believe that these other programs are comparable, nor are they intended to be comparable, to the Program of Comprehensive Assistance for Family Caregivers.

The monetary compensation offered by DoD under 37 U.S.C. 439, unlike the Program of Comprehensive Assistance for Family Caregivers, does not provide mental health services, healthcare, or a monthly stipend for eligible Family Caregivers. Instead, DoD pays ''monthly special compensation'' directly to qualifying servicemembers. Moreover, DoD's eligibility criteria are more stringent than the criteria in the Program of Comprehensive Assistance for Family Caregivers. An eligible individual under section 439 must have a ''catastrophic'' injury or illness, be certified by a licensed physician to be in need of assistance from another person, and in the absence of such assistance must require ''hospitalization, nursing home care, or other residential institutional care.'' 37 U.S.C. 439(b).

Similarly, the FRCP functions very differently than the Program of Comprehensive Assistance for Family Caregivers. The FRCP provides oversight and coordination of clinical and non-clinical care for eligible severely wounded, ill, or injured servicemembers and veterans through recovery, rehabilitation, and reintegration into their home community, while Family Caregiver benefits are intended to provide support and assistance to designated and approved Family Caregivers to enhance the health and well-being of eligible veterans participating in the Program of

Comprehensive Assistance for Family Caregivers.

Based on the differences between the Program of Comprehensive Assistance for Family Caregivers and the programs discussed by the commenters, we do not agree that the rule should be amended to match or bridge perceived gaps with other Federal government programs.

Multiple commenters asserted that historical remarks in news releases quote the Secretary of Veterans Affairs (Secretary) as being in support of including ''illness'' within the definition of ''serious injury.'' Specifically, commenters submitted that subsequent to the passing of the Caregivers Act, the Secretary stated in a press release dated February 9, 2011, that ''[c]aregivers make tremendous sacrifices every day to help Veterans of all eras who served this nation. . . . They are critical partners with VA in the recovery and comfort of ill and injured Veterans, and they deserve our continued training, support and gratitude.'' In this statement, the Secretary was referring to caregivers for all era veterans, including those pre-9/11 veterans who can receive General Caregiver benefits under § 71.30, which covers any ''veteran who is enrolled in the VA health care system and needs personal care services because the veteran . . . [i]s unable to perform an activity of daily living; or . . . [n]eeds supervision or protection based on . . . impairment or injury.'' The effects of illness may be considered in determining eligibility for General Caregivers benefits because the ''serious injury'' requirement is not applicable to § 71.30.

One commenter asserted that section 1720G allows for flexibility to include the term ''illness'' in our definition of serious injury, because section 1720G(a)(2)(C)(ii) includes the phrase ''or other impairment.'' See 38 U.S.C. 1720G(a)(2)(C)(i)–(iii) (which premises eligibility on the individual being in need of personal care services because the individual is unable ''to perform one or more activities of daily living;'' has a ''need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury;'' or ''such other matters as the Secretary considers appropriate.''). Although the criteria in section 1720G(a)(2)(C)(i)–(iii), to include the phrase ''or other impairment,'' all explain the circumstances for which personal care services may be needed, these criteria do not define the underlying ''serious injury'' term or the separate eligibility requirement that the individual have a serious injury. We therefore disagree that section 1720G(a)(2)(C)(ii) permits the discretionary inclusion of ''illness'' in the rule.

Lastly, one commenter argued that VA generally does not differentiate between injury and illness as a basis of eligibility for VA benefits, and that the Program of Comprehensive Assistance for Family Caregivers should similarly not make such a distinction. In support of this contention, the commenter cited multiple VA regulations primarily related to disability compensation, where eligibility for benefits is based on both injury and a disease process or illness, and further stated that ''[t]he caregiver provisions should be interpreted in harmony with the general principle established in the statutory scheme, that veterans with a qualifying disability are entitled to benefits whether such disability resulted from an injury or an illness.'' We do not agree with the commenter that the statutory scheme that supports these other VA regulations may be used to interpret the eligibility criteria for the Program of Comprehensive Assistance for Family Caregivers for several reasons.

First, the interpretive relevance of any seemingly related statute is outweighed when the subject statute's meaning is clear: ''[I]n line with the basic rule on the use of extrinsic aids, other statutes may not be resorted to if the statute is clear and unambiguous.'' 2B Norman J. Singer, Sutherland Statutory Construction, section 51:01 (6th ed. 2000). As stated previously, section 1720G is clear that ''illness'' is not considered in relation to eligibility under the Program of Comprehensive Assistance for Family Caregivers.

Second, the stipend provided to a caregiver under section 1720G is not disability compensation, and is not related to VA's disability compensation regulations. The stipend is paid directly to the Family Caregiver and not the veteran, and is calculated based on the degree of assistance required by the veteran, and not the veteran's rated level of disability. Disability compensation schedules are designed to measure the effect of disease or injury on a veteran's earning capacity, and not the level of personal care services needed by a veteran.

Finally, Congress could easily have linked the Family Caregiver stipend to VA disability compensation; however, section 1720G mandates that VA create a program that is distinct from virtually all other VA benefits programs. In turn, the regulations implementing the stipend payments under the Program of Comprehensive Assistance for Family Caregivers were specifically established to meet the goals of the statute governing the Program of Comprehensive Assistance for Family Caregivers. As such, the Family Caregiver stipend is designed to enable caregivers to provide certain home-based care—it is not designed to supplement, replace, or be dependent in any manner on the level of disability compensation received by the veteran.

Use of Global Assessment of Functioning (GAF) Score as an Eligibility Criterion

Multiple commenters argued for the revision or removal of § 71.20(c)(3), which authorizes eligibility for Family Caregiver benefits on the basis that an individual requires personal care services because of a ''[p]sychological trauma or a mental disorder that has been scored . . . with Global Assessment of Functioning (GAF) test scores of 30 or less, continuously during the 90-day period immediately preceding the date on which VA initially received the caregiver application.'' Commenters interpreted this GAF criterion to be the sole means of eligibility for an individual with a psychological trauma or mental health disorder, and subsequently asserted that such a criterion was arbitrary and too restrictive. We do not make any changes to the rule based on these comments; however, we clarify that the GAF score criterion in § 71.20(c)(3) is not the sole means to establish eligibility based on a psychological trauma or mental health disorder. We do not intend, and the rule does not state, that any psychological trauma or mental disorder must have an accompanying GAF score of 30 or less in order to qualify as a serious injury. In providing the bases upon which an individual may require personal care services to establish eligibility, the rule states in § 71.20(c) that ''any one of the following clinical criteria'' may suffice, to include a GAF score of 30 or below in § 71.20(c)(3). The GAF score criterion is not a sole eligibility basis for individuals with mental disorders, but rather an irrebuttable basis for eligibility under § 71.20(c) when an individual presents with a psychological trauma or mental disorder that meets the GAF score requirement. A veteran or servicemember with a mental health disorder that does not meet the requirements of § 71.20(c)(3) could still qualify under § 71.20(b)–(c) if that mental disorder is a serious injury that renders the individual in need of personal care services because of any of the other eligibility criteria in § 71.20(c)(1), (c)(2), or (c)(4). For instance, if an individual with a psychological trauma or mental disorder requires supervision or protection due

to such trauma or disorder, an assessment of their application may show they are eligible under § 71.20(c)(2), and that same individual will not then be required to submit a GAF score due to their injury being related to mental health. Rather than being an undue restriction, we consider the GAF score criterion in § 71.20(c)(3) in fact to be an expansion of the statutory bases of eligibility, permissible under 38 U.S.C. 1720G(a)(2)(C)(iii).

Commenters stated that the requirement that the GAF score be continuous for 90 days would necessitate undue repeated testing during the 90-day period, and that the 90-day requirement was too lengthy and would result in an unreasonable delay of benefits. We do not make any changes to the rule based on these comments, because VA does not intend to continuously test veterans during the 90-day period in an effort to rebut a GAF score of 30 or less. Additionally, 90 days is a reasonable and necessary timeframe to determine if an impairment is non-episodic to necessitate Family Caregiver benefits. As the rule states, if there is a GAF score of 30 or less at the beginning of the 90-day period as well as a score of 30 or less at the end of that period, we will apply § 71.20(c)(3) unless there is an intervening GAF score of more than 30 for veterans or servicemembers seeking to qualify for the program on this basis. Typically, GAF tests are administered and GAF scores are recorded at appropriate clinical intervals during the provision of care. Two GAF scores below 30 that are 90 days apart provides a sound basis to clinically determine that the servicemember's or veteran's injury and need for a Family Caregiver is chronic and not episodic in nature, or that the injury is not responsive to treatment such that the assistance of a Family Caregiver is required. How many other GAF scores might be present in the medical record to be considered intervening could depend on multiple individual factors. However, GAF tests will not be initiated by VA to develop evidence to rebut the servicemember's or veteran's need for a Family Caregiver.

We further disagree with some commenters' statements that a GAF score range of 30 or less, if used as an eligibility criterion in the rule, is too restrictive. Commenters argued that the range should be higher, including commenters who advocated for scores of up to 50. One commenter noted that a score range of 31–40 should be used because it indicates ''some impairment in reality testing or communication,'' or also indicates ''major impairment in several areas, such as work or school, family relations, judgment, thinking or mood.'' However, we reiterate from the interim final rule that we find the description for a GAF score of 30 and below to be the most appropriate description to support the presumption that a Family Caregiver is needed, when a GAF score is used as the qualifier. The following description from the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition (DSM–IV) of GAF scores in the 21–30 range is the minimum impairment standard that VA will require to consider a mental health diagnosis a serious injury: ''Behavior is considerably influenced by delusions or hallucinations OR serious impairment, in communication or judgment (*e.g.,* sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) OR inability to function in almost all areas (*e.g.,* stays in bed all day, no job, home, or friends).'' At this assessed level of impairment, the supervision or protection of a caregiver is essential to the individual.

Family Caregiver Eligibility Requirements (Other Than the GAF Score) Are Not More Restrictive Than Permitted by Law

One commenter stated that certain eligibility criteria in § 71.20(a)–(g) are more restrictive than permitted by a plain reading of section 1720G. This commenter argued that VA has created additional, unlawful restrictions in the rule that will result in fewer veterans in need being deemed eligible for benefits and services. We do not make any changes based on this comment. All of the eligibility requirements in § 71.20(a)–(g) are either restatements of explicit criteria in section 1720G, are additional lawful criteria that are specifically authorized by discretionary language in section 1720G, or are supported by the clear intent of the law. The following discussion directly compares all provisions of the eligibility criteria in § 71.20(a)–(g) to the express provisions and intent of section 1720G.

The requirements in § 71.20(a)–(b) restate the requirements in section 1720G(a)(2)(A)–(B) that a qualifying individual must be a veteran, or servicemember undergoing medical discharge, who has a serious injury incurred or aggravated in the line of duty on or after September 11, 2001.

The requirements in § 71.20(c) create additional criteria which are not expressly stated in section 1720G, but that are necessary and consistent with the overall purpose of the law. Section 71.20(c) establishes that there must be a connection between the qualifying serious injury and the individual's need for personal care services, and that a minimum of six continuous months of care is required. As we stated in the interim final rule, we believe that it is reasonable to interpret section 1720G, which premises eligibility upon a serious injury incurred or aggravated in the line of duty, to require that the serious injury form the basis for the individual's need for a Family Caregiver. It would not have been reasonable for Congress to have authorized VA to provide Family Caregiver services to veterans and servicemembers with serious injuries but not to have also required that the need for such services be specifically linked with the serious injuries. We also interpret section 1720G to provide Family Caregiver support and assistance for the benefit of individuals with long-term disabilities, and not episodic flare ups that temporarily establish the need for a Family Caregiver; this is the basis for the required six-month period. We reiterate from the interim final rule that this requirement meets the intent of the statute to benefit persons with longer term care needs. The law contemplates training, payment of compensation, and ongoing monitoring of veterans receiving Family Caregiver services in their homes, all of which support a framework that will benefit those with longer-term care needs.

The requirements in § 71.20(c)(1)–(2) restate the criteria in section 1720G(a)(2)(C)(i)–(ii), that the qualifying individual be in need of personal care services because of an inability to perform an activity of daily living, or due to the individual needing supervision or protection based on symptoms or residuals of neurological or other impairment or injury. The requirements in § 71.20(c)(3)–(4) are discretionary eligibility criteria expressly permitted by section 1720G(a)(2)(C)(iii), and allow a veteran or servicemember to be considered in need of personal care services through two additional means: a qualifying Global Assessment of Functioning score of 30 or less; or if the individual is service-connected for a qualifying serious injury, is rated as 100 percent disabled for that injury, and has been awarded special monthly compensation that includes an aid and attendance allowance.

A veteran or servicemember is not required to meet all requirements under § 71.20(c)(1)–(4). Paragraph (c) specifies that an individual may be considered to be in need of personal care services ''based on any one of the following clinical criteria.'' 38 CFR 71.20(c). We further interpret that the law's use of the word ''or'' in section 1720G(a)(2)(C)

allows VA to choose, as needed, between the criteria in section 1720G(a)(2)(C)(i)–(iii) in determining a veteran or servicemember's eligibility, to include choosing them all. VA included all explicit criteria under section 1720G(a)(2)(C)(i)–(ii) in § 71.20(c)(1)–(2), and prescribed additional discretionary criteria in § 71.20(c)(3)–(4) as permitted by section 1720G(a)(2)(C)(iii).

The requirement in § 71.20(d) indicates that an individual may not be considered eligible unless a clinical determination is made that it is in the individual's best interest to participate in the program. One commenter suggested that this requirement was unreasonable, as VA's ''in the best interest'' determination is not analogous to the criterion in section 1720G(a)(1)(B), which states that VA ''shall only provide support under the [Program of Comprehensive Assistance for Family Caregivers] to a family caregiver of an eligible veteran if the Secretary determines it is in the best interest of the eligible veteran to do so.'' Essentially, the commenter stated that VA incorrectly used the ''in the best interest'' criterion for the purposes of determining eligibility of the veteran themselves for benefits, instead of for the purposes of determining whether to provide benefits to a Family Caregiver. We recognize that the language in § 71.20(d) regarding the ''in the best interest'' determination is phrased differently than in section 1720G(a)(1)(B), but this difference is not contrary to section 1720G(a)(1)(B), and does not create more restrictive eligibility criteria than permitted by law. Section 1720G does not confer benefits to a Family Caregiver independent of a qualifying veteran or servicemember, nor are benefits available to a qualifying veteran or servicemember under section 1720G, without the designation of a Family Caregiver. Therefore, section 1720G(a)(1)(B) and § 71.20(d) both contemplate the same determination: whether it is in the best interest of the veteran or servicemember to receive care and services under the Program of Comprehensive Assistance for Family Caregivers, and therefore whether the Family Caregiver receives support from VA to provide such care and services. It is essential then to consider whether it is in the best interest of the veteran or servicemember to participate in the Program of Comprehensive Assistance for Family Caregivers generally, as part of the initial qualification criteria in § 71.20(d). Our use of the phrasing ''in the best interest of the individual to participate in the program'' in § 71.20(d) is not a more restrictive interpretation than permitted by law, because a determination that a veteran's or servicemember's caregiver should not receive benefits under section 1720G(a)(1)(B) is functionally the same as a determination that a veteran or servicemember may not participate in the program under § 71.20(d). The text of § 71.20(d) maintains the premise under section 1720G(a)(1)(B) that the determination be based on ''the best interest'' of the individual, and merely rephrases to clarify that benefits are provided to Family Caregivers only when it is in the best interest of the individual to participate in the Program of Comprehensive Assistance for Family Caregivers.

A related argument from the commenter contended further that our definition of ''[i]n the best interest'' in § 71.15 creates a higher standard than a stated goal of the Program of Comprehensive Assistance for Family Caregivers, in that this definition relies upon a determination that ''participation in the program significantly enhances the eligible veteran's ability to live safely in a home setting.'' 38 CFR 71.15. The commenter contrasts this ''significantly enhances'' criterion with one of the goals of the Program of Comprehensive Assistance for Family Caregivers as discussed in the supplementary information in the interim final rule, which is ''to ensure that the veteran is able to live in a residential setting without unnecessary deterioration of his or her disability, and safe from potential abuse or neglect.'' 76 FR 26148, May 5, 2011. In addition to asserting that the ''significantly enhances'' criterion in § 71.15 is a higher standard than expressed in the supplementary information section of the interim final rule, the commenter stated that the ''significantly enhances'' criterion is not defined and does not have an accompanying scale of measurement to express when it is met. Ultimately, the commenter urged VA to revise the rule to include a scale of measurement, or to remove the ''significantly enhances'' criterion altogether. We do not make any changes based on this comment, as the ''significantly enhances'' criterion in the definition of ''[i]n the best interest'' in § 71.15 does not create an unreasonable standard beyond a goal of the Program of Comprehensive Assistance for Family Caregivers. As stated in the rule, VA concludes that determinations of ''in the best interest'' must be clinical determinations, guided by VA health professionals' judgment as to what care will best support the health and well-being of the veteran or servicemember—including that which offers the best opportunity for recovery and rehabilitation, whenever possible. Consequently, such determinations will include clinical considerations of whether assistance from a Family Caregiver ''significantly enhances'' the individual's ability to live safely in a home setting, where we intend the ''significantly enhances'' criterion to be a threshold determination that assistance from a caregiver is actually necessary to allow a veteran or servicemember to live safely and receive care in a non-institutional home environment. This ''significantly enhances'' criteria allows health professionals, utilizing clinical judgment, to determine that Family Caregiver assistance is needed for an individual to live safely in a home setting. We do not interpret section 1720G to permit caregiver benefits and services for individuals who, though they may benefit from such assistance, can perform tasks safely and independently 100 percent of the time without a caregiver, for instance by using assistive devices or adaptive equipment. The ''significantly enhances'' phrase in the definition of ''[i]n the best interest'' therefore does not serve to unduly restrict the provision of Family Caregiver benefits, but rather ensures that these benefits are provided to only those veterans and servicemembers who actually require them to safely live and receive care in the home.

The requirement in § 71.20(e) bars authorization of a Family Caregiver if the services that would be provided would be simultaneously and regularly provided by or through another individual or entity. Our intent is to ensure that the Family Caregiver is not depending on VA or another agency or individual to provide the personal care services that the Family Caregiver is expected to provide. This requirement is not more restrictive than permitted by law, because Congress clearly intended to support Family Caregivers for the personal care services that Family Caregivers themselves provide to the veteran or servicemember.

The requirements in § 71.20(f)–(g) state that the individual must agree to ''receive care at home'' and ''receive ongoing care from a primary care team'' after VA designates a Family Caregiver. The consent required by paragraphs (f) and (g) as a prerequisite to an award of Family Caregiver benefits enables VA to perform statutorily required monitoring and documentation functions. Under section 1720G(a)(9)(A), VA must

''monitor the well-being of each eligible veteran receiving personal care services'' from a VA-designated caregiver under the Program of Comprehensive Assistance for Family Caregivers. We are also required to document findings ''pertinent to the appropriate delivery of personal care services to an eligible veteran under the program,'' and ensure appropriate follow up. See 38 U.S.C. 1720G(a)(9)(B) and (C). In addition to meeting statutory requirements, the consent requirements in § 71.20(f)–(g) are not unreasonable, given that section 1720G generally is premised upon supporting caregivers in the provision of assistance to individuals in non-institutional home settings, and those individuals must then consent to receive such assistance. Neither of the requirements in § 71.20(f)–(g) impose more restrictive criteria than permitted by section 1720G.

As stated above, all of the rule's eligibility requirements in § 71.20(a)–(g) that are not restatements of law from section 1720G(a)(1)–(2) are either discretionary criteria as permitted by law, or are required for VA to implement other provisions of section 1720G. Section 71.20 merely places all mandatory and permissible eligibility requirements from section 1720G(a) in one place to make them apparent at the outset. None of the requirements in § 71.20(a)–(g) are more restrictive than contemplated by section 1720G(a), and therefore § 71.20(a)–(g) does not result in fewer veterans in need being deemed eligible for benefits and services than contemplated by law.

Servicemember Eligibility

Section 1720G indicates that servicemembers are eligible for benefits under the Program of Comprehensive Assistance for Family Caregivers if they are undergoing medical discharge from the Armed Forces: ''For purposes of this subsection, an eligible veteran is any individual who . . . is a veteran or member of the Armed Forces undergoing medical discharge from the Armed Forces.'' 38 U.S.C. 1720G(a)(2)(A). The rule in turn defines ''undergoing medical discharge'' by requiring ''that the servicemember has been found unfit for duty due to a medical condition by their Service's Physical Evaluation Board, and a date of medical discharge has been issued.'' 38 CFR 71.15. We received several comments related to the starting time of VA Family Caregiver benefits, or when a servicemember may be considered eligible for and then apply for benefits. Commenters asserted that a servicemember should be eligible to receive Family Caregiver benefits before receiving a medical discharge date, and specifically stated that a servicemember should be considered eligible at the beginning of the medical evaluation process within DoD. These commenters stated that allowing a servicemember to be considered eligible at an earlier date would ensure that training opportunities would be available to caregivers of servicemembers throughout the treatment of the servicemember by DoD, which the commenters assert is necessary to improve overall care provided to the servicemember. We make some changes to the rule based on these comments, as explained below.

The medical evaluation process that is used by DoD to determine whether a servicemember remains medically fit for active duty can take several months or more, and some servicemembers referred and evaluated will in fact return to active duty or be offered an opportunity to train for another military occupational specialty. Section 1720G, however, suggests by use of the phrase ''eligible veteran,'' that medical discharge and then transition to veteran status must be certain in order for a service member to be eligible for such benefits: ''For purposes of this subsection, an eligible veteran is any individual who . . . is a veteran or member of the Armed Forces undergoing medical discharge from the Armed Forces.'' 38 U.S.C. 1720G(a)(2)(A). We interpret the phrase ''undergoing medical discharge'' to require then that the individual be engaged in a process of actual separation from active duty, rather than a process of determining whether to separate from active duty. In order to effectuate this statutory requirement, we believe it is appropriate to ensure by regulation that the individual is far enough along in the medical discharge process that there will not be extended overlap between the individual's period of service and the time that they achieve veteran status, as well as to attempt to ensure that the discharge is essentially inevitable. Therefore, we make no change to our definition of ''[u]ndergoing medical discharge.''

In addition to the reasons stated above, we do not believe Congress intended to authorize prolonged VA Family Caregiver benefits for active duty servicemembers, particularly because it has authorized DoD to provide monthly special compensation, under 37 U.S.C. 439, to active duty servicemembers who, due to a catastrophic injury or illness incurred or aggravated in the line of duty, require a caregiver in order to avoid institutional care. One commenter expressed, however, that the special compensation that DoD may pay to these same servicemembers under section 439 is not sufficient to ensure that actual caregiver training is provided. As noted above, individuals receiving section 439 DoD compensation may eventually return to active duty. Although VA can and will provide Family Caregiver training for servicemembers who have been issued a medical discharge date (and meet other requirements to qualify for the Program of Comprehensive Assistance for Family Caregivers), for the reasons described above we do not believe that section 1720G authorizes VA to provide Family Caregiver training before the servicemember is assigned such a date.

However, we understand the commenters' stated concerns for those servicemembers who may be undergoing a lengthy discharge process due to multiple hospitalizations and extended recovery times, and their caregivers who would benefit from receiving VA Family Caregiver training in addition to the servicemember receiving the monetary benefit provided by DoD pursuant to 37 U.S.C. 439. In the interest of providing compassionate, patient-centric care, we note that VA has initiated discussions with DoD to design a caregiver training and education program that would be substantially similar to VA's program. Although such a program is not currently operationalized, DoD may utilize such a program in the future to train caregivers of active duty servicemembers.

Under the interim final rule, § 71.25(d) defined caregiver training as ''a program of education and training designed by and provided through VA.'' Before an individual is approved as a Family Caregiver, § 71.25(c)(2) requires that the individual complete caregiver training as defined under § 71.25(d). Based on comments concerning the need to allow caregivers to receive training while their veterans are still active duty servicemembers, and provided that DoD may adopt a training program for caregivers in the future, we amend § 71.25(d) to remove the requirement that caregiver training be ''provided through'' VA, so that § 71.25(d) will define Family Caregiver training as ''a program of education and training designed and approved by VA.'' Consequently, VA will approve and accept participation by a caregiver of an active duty servicemember in DoD caregiver training that is modeled after VA's caregiver training to satisfy the training requirements under § 71.25(c)(2). Recognition of such training that may be offered by DoD in

the future, that is substantially similar to that offered by VA, will prevent Family Caregivers from having to undertake the same training more than once, unless necessary.

We also amend § 71.25(e) to require that VA visit the veteran at home and assess the Family Caregiver's competence to provide personal care services within 10 business days after VA certifies completion of training, rather than within 10 business days of training completion. As noted above, the training may be provided by DoD to caregivers of active duty servicemembers who are not at that time eligible for Family Caregiver benefits; therefore, we cannot visit the home within 10 days after completion of such training. Thus, § 71.25(e) now provides that a home-care assessment must be conducted by VA not later than 10 business days after VA certifies completion of Family Caregiver training, versus not later than 10 business days after completion of the training. In practice, VA will certify that previous DoD training has been completed when the caregiver presents documentation showing completion to VA, after a joint application has been submitted and all eligibility and approval criteria are otherwise met under §§ 71.20–71.25. This amendment of § 71.25(e) will not have any adverse effect on caregivers of eligible veterans who complete Family Caregiver training provided through VA, as VA will continue to schedule the home visit within 10 days of training completion.

Procedures for Clinical Ratings

One commenter stated that the rule failed to clearly articulate how VA makes clinical determinations. Specifically, the commenter suggested that the phrase ''clinical rating'' be defined to describe procedures that would ensure that clinical determinations are made by an interdisciplinary team (and not one individual), and that would ensure that the perspectives of the caregiver are considered when determining need for personal care services. The commenter suggested that the caregiver be interviewed to capture the caregiver's assessment of the veteran's or servicemember's need for personal care services, as well as to assess the level of distress potentially experienced by the caregiver. The commenter lastly urged that eligibility evaluations concerning a need for ''supervision or protection'' specifically should account for how the individual veteran or servicemember functions at home and in his or her community to properly evaluate the individual's need for protection or supervision.

The rule states in § 71.25(f) that ''if the eligible veteran and at least one applicant meet the requirements of this part, VA will approve the application and designate Primary and/or Secondary Family Caregivers, as appropriate. This approval and designation will be a clinical determination authorized by the eligible veteran's primary care team.'' We intend that the clinical determinations made under § 71.20 regarding the veteran's or servicemember's initial eligibility as well be authorized by a primary care team versus a single individual, and agree with the commenter that § 71.20 be so amended. Section 71.20(c) will now similarly states that ''such serious injury renders the individual in need of personal care services for a minimum of 6 continuous months (based on a clinical determination authorized by the individual's primary care team), based on any one of the following clinical criteria.'' Section 71.20(d) will now state that ''a clinical determination (authorized by the individual's primary care team) has been made that it is in the best interest of the individual to participate in the program.'' We believe § 71.20(c) otherwise clearly specifies the criteria by which personal care services are determined to be needed.

We additionally make one change to the definition of ''Primary care team'' as that term is defined in § 71.15 to indicate that we are referring to a group of medical professionals who care for a patient and who are selected ''by VA.'' We do not believe this is a substantive change, as the rule clearly states that VA is responsible for conducting all clinical assessments and determinations in the process of assessing and approving Family Caregivers. See § 71.25(a)(2), (b)(3), (c), (c)(1), (e), and (f).

Section 71.25(c) further mandates that during the application process, the primary care team will screen the family member to ensure the family member meets criteria to complete caregiver education and training, and thereby is deemed able to provide caregiver assistance. We believe that this caregiver screening is consistent with law, and we do not find that an additional, individual interview with the caregiver, or required inclusion of the caregiver in the veteran's or servicemember's assessment, should be a formal part of the current clinical process in determining the level of personal care services needed by every veteran or servicemember. However, it is not VA practice to bar a caregiver from being present during the veteran's or servicemember's assessment. The regulation at § 71.40(c)(4) similarly does not restrict the presence of a caregiver during a veteran's or servicemember's assessment, nor does it restrict a primary care team from considering the input of a caregiver. It is likely then that in many cases the caregiver will be present during the clinical assessment of the veteran or servicemember and that the primary care team will have discussions with that caregiver as needed to assist in determining the level of personal care services needed by the veteran or servicemember. As to the commenter's request for an assessment of a caregiver's level of distress, we recognize that it is important that caregivers be adequately trained so as not to experience undue levels of distress. In determining whether a particular caregiver should be approved and designated, VA will apply the objective criteria in § 71.25(b) and then assess the prospective caregiver in accordance with § 71.25(c). It is at that time that the clinical team will be able to determine whether the individual can perform the duties of a Family Caregiver and, in making that determination, the clinical team will consider ''any relevant information specific to the needs of the eligible veteran. . . .'' 38 CFR 71.25(c)(1). Information that a family member experiences too much stress to provide personal care services would be considered at such time. To the extent that a family member may be designated as a Family Caregiver and then, subsequently, find the responsibility to be stressful, we note that respite care will be available under § 71.40, and revocation of Family Caregiver status is available under § 71.45.

Lastly, we believe that initial eligibility determinations for individuals who may require supervision or protection do take into account how each individual functions in his or her home and community. The current evaluation process captures whether the veteran or servicemember is experiencing symptoms that necessitate supervision or protection, as those symptoms are described in § 71.15. We do, however, make changes to § 71.25(e) to facilitate ease of understanding related to home visits, and to clarify that an eligible veteran's well-being is independently assessed to determine if any additional training is needed for the caregiver to meet the eligible veteran's personal care needs. We believe this addresses the commenter's concern that VA assess a veteran's or servicemember's functionality in his or her home as appropriate. Section 71.25(e) is amended to make clear that

the purpose of the home visit is for the VA clinician or clinical team to assess the caregiver's completion of training and competence to provide personal care services to the eligible veteran, and to measure the eligible veteran's well-being.

We believe the evaluation process as discussed above appropriately describes an interdisciplinary clinical assessment process that involves the caregiver, without being overly prescriptive beyond the requirements of the law. We make one last non-substantive change to § 71.25(c)(1)(i) to clarify that accommodation for language or hearing impairment during an initial assessment of the application will be made ''to the extent possible and'' as appropriate.

Appeals

Multiple commenters stated that the rule should address a veteran's, servicemember's, or caregiver's right to appeal decisions made in connection with the Program of Comprehensive Assistance for Family Caregivers. In response, we first note that medical determinations are not subject to the jurisdiction of the Board of Veterans' Appeals under 38 U.S.C. 7104, or pursuant to our implementing regulation, which states that ''medical determinations, such as determinations of the need for and appropriateness of specific types of medical care and treatment for an individual, are not adjudicative matters and are beyond the [Board of Veterans' Appeals'] jurisdiction.'' 38 CFR 20.101(b). We additionally note that the Caregivers Act expressly states that ''[a] decision by the Secretary under [the Program of Comprehensive Assistance for Family Caregivers or the Program of General Caregiver Support Services] affecting the furnishing of assistance or support shall be considered a medical determination.'' 38 U.S.C. 1720G(c)(1). Therefore, all determinations that affect the furnishing of assistance or support through the programs under 38 U.S.C. 1720G are medical determinations as a matter of law, and as such may not be adjudicated in the standard manner as claims associated with veterans' benefits. We consequently do not make any changes to the rule.

Commenters asserted nonetheless that not all decisions under these regulations are medical in nature, and as such VA must distinguish in the rule those determinations that are not medical and that therefore may be appealed through the current processes associated with adjudicating veterans' benefits claims. Commenters also advocated that this rule must further prescribe an appellate mechanism for medical determinations. We disagree, and do not make any changes based on these comments.

Though the commenters recognize the clear mandate that all decisions regarding benefits under the rule are medical determinations and therefore are not appealable to the Board of Veterans' Appeals, commenters assert that Congress could not have intended to make decisions related specifically to eligibility determinations exempt from appellate review. In support of this contention, commenters cited 38 CFR 20.101(b), which states that ''[t]he [Board of Veterans' Appeals'] appellate jurisdiction extends to questions of eligibility.'' To illustrate their point, commenters argued that Congress could not have intended to deny an administrative right to appeal, for example, a nonmedical decision that a veteran's or servicemember's injury was incurred in the line of duty, or was incurred on or after September 11, 2001. The plain language of section 1720G(c)(1) removes any doubt that Congress intended to insulate even decisions of eligibility from appellate review under the Program of Comprehensive Assistance for Family Caregivers, and VA's regulation at § 20.101(b) cannot circumvent a statutory requirement. ''If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.'' *Chevron, U.S.A., Inc.* v. *Natural Res. Def. Council, Inc.,* 467 U.S. 837, 842–43 (1984). Further, Congress is presumed to know what laws and regulations exist when it enacts new legislation, and it is reasonable to infer that Congress knew that medical determinations were not appealable under § 20.101, and subsequently used that precise phrase in the statute to limit appeals of decisions in the Program of Comprehensive Assistance for Family Caregivers. See *California Indus. Products, Inc.* v. *United States,* 436 F.3d 1341, 1354 (Fed. Cir. 2006) (''These regulations are appropriately considered in the construction of [this particular statute] because Congress is presumed to be aware of pertinent existing law.'').

We recognize the seeming incongruence of the statutory mandate; for instance, a determination under the Program of Comprehensive Assistance for Family Caregivers that a veteran's or servicemember's military record did not support eligibility because he or she was discharged from active duty before September 11, 2001, is deemed a ''medical determination'' because it affects the provision of Family Caregiver benefits. However, if a veteran or servicemember believes that his or her military records are incorrect, he or she may seek correction of those records through his or her service department. If VA errs in applying these types of non-discretionary criteria, the error should be clear on the face of the evidence presented, or could be rectified with the presentation of alternate or corrected evidence. Such decisions would not create a situation in which the expertise of the Board of Veterans' Appeals at interpreting legal and regulatory provisions would be required. Instead, VHA has a clinical appeals process that will be sufficient to resolve such conflict. Under the VHA appeals process, patients or their representatives have access to a fair and impartial review of disputes regarding clinical determinations or services that are not resolved at the facility level. This process is intended to resolve conflicts about whether an appropriate clinical decision has been made, and the process certainly can resolve whether the adverse decision was based, for example, on a misreading of a date in a military record. Other issues that are being resolved through the VHA clinical appeals process include basic eligibility, determination of ''illness'' or ''injury,'' and the tier level assigned for stipend payment. This appeals process does not defy the statutory restriction at 38 U.S.C. 1720G(c)(1) against appeals to the Board of Veterans' Appeals because it is specifically designed to resolve conflicts based upon medical determinations.

We note, however, that not all benefits provided to caregivers are provided under 38 U.S.C. 1720G. Certain benefits afforded to caregivers by 38 U.S.C. 1720G are provided through other statutory authorities, and decisions regarding those benefits are therefore not made under 38 U.S.C. 1720G. For example, decisions by the Secretary affecting the payment of beneficiary travel (under 38 U.S.C. 111(e)(2) as authorized by 38 U.S.C. 1720G(a)(3)(A)(i)(IV)), the provision of CHAMPVA (under 38 U.S.C. 1781 as authorized by 38 U.S.C. 1720G(a)(3)(A)(ii)(IV)), and debt collection and waiver (under 31 U.S.C. 3711 and 38 U.S.C. 5302) are examples of matters decided under statutory authorities other than 38 U.S.C. 1720G. Appeal processes associated with those decisions, under applicable statutes and regulations, may be pursued by caregivers who disagree with a VA decision made under those authorities. See *e.g.,* 38 CFR 70.40, 17.276, 1.900–1.970.

Expansion of ''Activities of Daily Living'' in Stipend Calculation

Under § 71.40(c)(4), VA calculates the monthly stipend available to Primary Family Caregivers based on clinical ratings of both the eligible veteran's level of dependence in performing activities of daily living (ADLs) listed in the definition of the term ''[i]nability to perform an activity of daily living'' in § 71.15, and his or her ''[n]eed for supervision or protection based on symptoms or residuals of neurological or other impairment or injury'' under § 71.15. The ADLs designated in § 71.15 are: Dressing; bathing; grooming; frequent need of adjustment of special prosthetic or orthopedic appliance that, by reason of the particular disability, cannot be done without assistance; toileting; feeding oneself; and mobility.

Several commenters sought to include additional activities in the list of ADLs in § 71.15, because a Primary Family Caregiver may assist with activities that maintain an individual's quality of life but that are not listed as ADLs in § 71.15 and, therefore, are not accounted for in the stipend calculation. Examples of such activities included meal preparation, housework, shopping, transportation, laundry services, medication management, and using a telephone or other communication device. Multiple commenters referred to these activities as ''instrumental activities of daily living'' to distinguish them from the self-care ADLs already described in § 71.15. We do not make any changes to the rule based on these comments, and do not expand the listed ADLs in § 71.15 that are considered in calculating the stipend.

We believe that Congress specifically considered and rejected the use of the term ''instrumental activities of daily living'' in the Caregivers Act, as made apparent in the joint statement which accompanied the law. To reiterate our rationale from earlier in this rulemaking, it is clear from the joint statement that the eligibility criteria in the Senate bill (S. 1963, 111th Cong. (2009)), and not those in the House of Representatives bill (H.R. 3155, 111th Cong. (2009)), are generally reflected in the Caregivers Act, including the eligibility criteria and language regarding activities of daily living. In describing the eligibility criteria in the Senate bill, the joint statement states that ''[s]everely injured veterans are defined as those who need personal care services because they are unable to perform one or more independent activities of daily living.'' 156 Cong. Rec. S2567. This is in contrast to the eligibility criteria in the House of Representatives bill, which would have accounted for veterans ''unable to carry out activities (including instrumental activities) of daily living.'' Id. The Senate bill's eligibility criteria language most closely resembles that which was adopted in the Caregivers Act. See 38 U.S.C. 1720G(d)(4)(A) (which defines ''personal care services'' to include services that provide assistance with one or more ''independent activities of daily living''). ''[W]here the language under question was rejected by the legislature and thus not contained in the statute it provides an indication that the legislature did not want the issue considered.'' 2A Norman J. Singer, Sutherland Statutory Construction, section 48:04 (6th ed. 2000). Because it is clearly the Senate provision and its characterization of ADLs as ''independent'' and not ''instrumental'' that became law, we do not agree with the commenters that VA must expand the ADL listing in § 71.15 to include ''instrumental'' ADLs.

We clarify that some activities commenters wanted to add to the ADL listing in § 71.15 are already specifically considered in § 71.15, or elsewhere in the rule. An individual who has difficulty with ''medication management'' for instance, may be eligible if he or she is considered under § 71.15 as having ''[d]ifficulty with planning and organizing (such as the ability to adhere to medication regimen).'' Additionally, the costs involved in traveling to and from and for the duration of the eligible veteran's medical examination, treatment, or care may be compensable through the beneficiary travel program pursuant to § 71.40(b)(6) and section 104 of the Caregivers Act. To consider such costs in calculation of the stipend would amount to duplicative compensation. However, caregiver services consisting solely of common housekeeping activities (housecleaning, laundry, meal preparation, shopping, or other chores), as well as assistance with financial management and operating communication devices, should not be compensable as part of the stipend unless these deficiencies relate to a need for supervision or protection or inability to perform ADLs, pursuant to the explicit requirements of the Caregivers Act. Section 1720G(a)(3)(C)(i) states that VA must base the stipend amount on ''the amount and degree of personal care services provided,'' and section 1720G(a)(2)(C)(i)–(iii) predicates the need for personal care services on the individual being unable ''to perform one or more activities of daily living;'' having a ''need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury;'' or ''such other matters as the Secretary considers appropriate.'' Because the law premises the need for personal care services on specific ADL needs or supervision and protection needs, the calculation of the stipend amount is based upon the amount and degree of assistance an individual requires to perform one or more activities of daily living (ADL), or the amount and degree to which the individual is in need of supervision or protection based on symptoms or residuals of neurological or other impairment or injury. The stipend is calculated, therefore, based on the personal care needs of each individual, not specific duties as performed by caregivers that are not directly related to assistance with ADLs or providing supervision or protection in the home. For instance, while housecleaning and shopping may be common activities in daily living, completion of these activities by the caregiver may not be for the exclusive benefit of the eligible veteran, but rather for the benefit of the entire household to potentially include the Primary Family Caregiver—these activities are not related to the eligible veteran's specific need for ADL assistance or need for protection or supervision.

While we do not amend the rule to add ADLs to § 71.15 as suggested by commenters, we do believe changes to § 71.40(c)(4)(iv)(A)–(C) would clarify the intent of the assessment of an eligible veteran's need for personal care services, with relation to calculating the monthly stipend for Primary Family Caregivers. Section 71.40(c)(4)(iv) currently equates the sum of a veteran's ratings under § 71.40(c)(4)(iii) with the number of caregiver assistance hours the veteran is presumed to need. See 38 CFR 71.40(c)(4)(iv) (explaining that the sum of ratings indicates that ''the eligible veteran is presumed to require'' a certain number of hours of caregiver assistance per week). Because the stipend amount must be based on the amount of personal care services needed, we will emphasize that an eligible veteran's rating under § 71.40(c)(4)(iii) will be the basis for the stipend the Family Caregiver will receive. We therefore amend § 71.40(c)(4)(iv)(A)–(C) to indicate that the sum of an eligible veteran's ratings under § 71.40(c)(4)(iii) will be the basis for the stipend payment the Family Caregiver will receive, equivalent to the eligible veteran requiring a designated number of hours of caregiver assistance. This change in the regulation text does

not create any substantive change in the calculation of the stipend.

Multiple commenters asserted that other VA statutory or regulatory authority supported the expansion of listed ADLs in § 71.15. One commenter asserted that the rule does not consider as eligible those veterans or servicemembers with residuals of traumatic brain injury (TBI) who are able to perform ADLs as listed in § 71.15, but not ''instrumental activities of daily living'' (IADLs) as that term is used in 38 CFR 4.124a, Schedule of ratings—neurological conditions and convulsive disorders. While the commenter cited 38 CFR 4.123, we assume that the commenter was referring to § 4.124a and that regulation's use of the term IADL to suggest that the rule should be consistent with VA's means of rating TBI for purposes of determining disability compensation. We disagree for several reasons. First, we reiterate that the stipend provided to a caregiver under section 1720G is not disability compensation, and is not related to disability compensation. The stipend is paid directly to the Primary Family Caregiver and is calculated based on the degree of assistance required by the eligible veteran. Congress could easily have linked the caregiver stipend to disability compensation; however, section 1720G instead mandates that VA create a program that is distinct from virtually all other VA benefits programs. The caregiver stipend is designed to assist eligible veterans by enabling Primary Family Caregivers to provide certain home-based care. It is not designed to supplement, replace, or be dependent on the level of disability compensation received by the veteran. The regulations implementing the Program of Comprehensive Assistance for Family Caregivers, in particular the criteria for calculating the stipend amount, were specifically established to meet the goals of the Caregivers Act governing the Program of Comprehensive Assistance for Family Caregivers. These regulations are not, and need not be, designed to complement the rating schedule in 38 CFR part 4.

Another commenter stated, ''Section 1115 of title 38 of the United States Code provides compensation to the veteran only when the spouse cannot perform the duties of a caregiver. This same level of stipend should be applied to non-medical care services provided by caregivers to service members and veterans.'' The meaning of this comment is unclear. First, it is not clear to what ''[t]his same level of stipend'' refers. Section 1115 of title 38, United States Code, does not provide a stipend; rather, it authorizes additional compensation for certain dependents to a veteran entitled to compensation at the rates provided under 38 U.S.C. 1114, and whose disability is rated at least 30 percent. Nothing in 38 U.S.C. 1115, or in VA's implementing regulation at 38 CFR 3.4(b)(2), suggests that a veteran's receipt of additional compensation for dependents is based on the veteran's dependent spouse being unable to serve as the veteran's caregiver. Section 1115 compensation is available to a veteran for a dependent spouse, regardless of the spouses' caregiver status, and the payment of section 1115 compensation to a veteran for a dependent spouse does not equate to VA paying for ''non-medical'' services provided to the veteran or to the dependent spouse. Rather, the payment of additional compensation for dependents is intended to assist a disabled veteran to continue to support certain dependents. Additionally, a veteran's receipt of additional compensation under section 1115 is not affected by a dependent spouse's receipt of the stipend under § 71.40(c)(4). Generally, we reiterate our rationale that the stipend provided to a Primary Family Caregiver under § 71.40(c)(4) is not disability compensation, and is not related to VA's disability compensation authorities, to include section 1115. The stipend is paid directly to the Primary Family Caregiver and not the veteran, and is calculated based on of the degree of assistance required by the veteran, and not the veteran's rated level of disability.

It is possible that the commenter intended to discuss the additional compensation payable based on a veteran's need for aid and attendance and a ''higher level of care'' (under 38 U.S.C. 1114(r)(2)), which is payable only if personal health care services must be provided by, or provided under the supervision of, a licensed provider in the veteran's home. 38 U.S.C. 1114(r)(2). Assuming that the commenter was referring to payments under section 1114(r)(2), we find the commenter's analogy between payments under that section and the stipend payments under this rule inapplicable. The duties provided by a Primary Family Caregiver are not exclusively personal health care services that must be performed by a person who is licensed to provide such services or under the regular supervision of a licensed health care professional, unlike the services required by a veteran under section 1114(r)(2). All assistance that is compensable under the stipend calculation in the rule, such as helping the eligible veteran with dressing, eating, grooming, using the toilet, etc., requires no special license and only a designated level of training as specified in § 71.25(d). Payments under section 1114(r)(2) would be even less comparable to stipend payments under the rule, in fact, if non-medical IADL services that clearly do not require licensure (*e.g.,* laundry, meal preparation) were considered in the calculation of the stipend. We additionally clarify that participation in the Program of Comprehensive Assistance for Family Caregivers would not bar a veteran from receiving aid and attendance compensation under section 1114(r), as § 71.20(c)(4) makes clear that one of the means of establishing a need for personal care services is the veteran having been rated 100 percent disabled for a service connected qualifying serious injury, where the individual has been awarded special monthly compensation that includes an aid and attendance allowance.

Lastly, one commenter stated that VA should expand the listing of ADLs in § 71.15, because VA is not limited by section 1720G(d)(4)(B) to only consider 38 U.S.C. 1701(6)(E) as its authority to define non-institutional extended care under the rule. In turn, as asserted by the commenter, VA is not so limited in defining ''personal care services'' in § 71.15. We do not make any changes based on this comment, as we believe we are so limited by the clear language of the law. The rule elaborates upon the statutory definition of ''personal care services'' set forth in 38 U.S.C. 1720G(d)(4). There, personal care services means services that provide the eligible veteran with ''[a]ssistance with one or more independent activities of daily living [and] . . . [a]ny other non-institutional extended care (as such term is used in section 1701(6)(E) of [title 38]).'' Non-institutional extended care services are not defined in 38 U.S.C. 1701(6)(E) in a manner that delineates the types of non-institutional extended care that constitute ''personal care services,'' but rather only authorizes the Secretary of VA to provide non-institutional extended care. See 38 U.S.C. 1701(6)(E) (explaining that the term ''medical services'' includes ''[n]oninstitutional extended care services, including alternatives to institutional extended care that the Secretary may furnish directly, by contract, or through provision of case management by another provider or payer.''). VA provides noninstitutional extended care services to veterans through VA's medical benefits package,

which includes but is not limited to ''noninstitutional geriatric evaluation, noninstitutional adult day health care, and noninstitutional respite care.'' 38 CFR 17.38(a)(1)(xi)(B). The clear language of 38 U.S.C. 1720G(d)(4)(B) requires that VA apply the term ''non-institutional extended care'' according to this established framework, ''as such term is used in section 1701(6)(E) of [title 38].'' 38 U.S.C. 1720G(d)(4)(B). We do not agree, therefore, with the commenter's assertions that we may rely on statutory authorities other than section 1701(6)(E), and in turn the implementing regulation at 38 CFR 17.38(a)(1)(xi)(B), to provide non-institutional care under the rule or otherwise as support for expanding the definition of ''personal care services'' in § 71.15. Moreover, the other authorities the commenter suggested we utilize to define non-institutional care and thus, personal care services under the rule specifically relate to the delivery of home health services, extended care services, and similar treatment by an interdisciplinary health team, not the provision of personal care services by a Family Caregiver as intended by section 1720G. See 38 U.S.C. 1710B, 1717, 1720C.

40-Hour Cap on Compensable Personal Care Services

A commenter contended that the cap of 40 hours of compensable caregiver assistance under § 71.40(c)(4)(iv) is insufficient because the personal care needs of some eligible veterans may exceed that limit. Specifically, this commenter argued that the rationale for such a cap should be articulated in the rule, and that the rule must allow the caregiver a reasonable opportunity to rebut the presumption that a veteran requires no more than 40 hours of assistance a week. We do not make any changes based on this comment. As previously stated, the stipend is calculated based on the personal care needs of each veteran, and may not directly correlate with all of the activities a caregiver completes, and subsequently may not directly correlate with the actual number of hours that a caregiver spends completing such activities.

Moreover, we believe that it could jeopardize the health and welfare of the eligible veteran to require or expect a Primary Family Caregiver to work more than 40 hours per week. A significant factor in the passage of the Caregivers Act was the amount of work and stress that caregiver's experience. The Program of Comprehensive Assistance for Family Caregivers includes supplemental home-based care and respite care as resources for an eligible veteran who requires more than 40 hours per week of care. Neither the law, nor sound VA policy, contemplates overburdening caregivers by expecting them to provide care for more than 40 hours per week.

Hourly Wage Rate

A commenter stated that setting of the hourly wage rate at the 75th percentile of the rate established by the Bureau of Labor Statistics (BLS) for a home health aide (varying by geography) is inadequate compensation. Specifically, the commenter argued that a wage rate at the 90th percentile would more appropriately reflect the degree of complex services caregivers provide. As stated by the commenter, ''the caregiving needs of many within the population of young severely wounded veterans are far more extensive than the kind of routine care described by BLS, and often cannot be met by a home health aide. In describing her role as a caregiver, one [caregiver] explained, 'I am my husband's accountant; occupational therapist; physical therapist; driver; mental health counselor; and life coach.' '' We do not make any changes based on this comment. First, the commenter urges VA to provide compensation for services that are beyond the scope of expertise of a home health aide and should not otherwise be provided by a home health aide (*e.g.* physical and occupational therapy, mental health counseling), despite the mandate in the Caregivers Act that, ''to the extent practicable,'' VA must ensure that the stipend amount ''is not less than the monthly amount a commercial home health care entity would pay an individual in the geographic area of the eligible veteran to provide equivalent personal care services to the eligible veteran.'' 38 U.S.C. 1720G(a)(3)(C)(ii). We interpret section 1720G(a)(3)(C)(ii) to clearly mandate that stipend amounts should be relative to what a typical home health aide is paid, and subsequently that Family Caregivers should not be expected to provide services that home health aides do not typically provide. We do not find that the law can reasonably be interpreted to require stipend compensation for the provision of specialty clinical care or rehabilitative treatment, or any other care beyond that which can be provided by a typical home health aide, or by a Family Caregiver who may have no additional training beyond that provided by VA under § 71.25(d).

Second, we believe Family Caregivers provide assistance within a range of complexity, given the level of assistance the individual veteran or servicemember is assessed to need and the moderate level of training and prequalification required before VA will designate a family member as a Family Caregiver. Consequently, the wage rate was set at the 75th percentile, which we continue to believe most accurately reflects the hourly rate of a home health aide for providing assistance with ADLs and supervision/protection needs, as they are defined in § 71.15. As we stated in the interim final rule, wage rates vary for home health aides depending on their experience and education, as well as economic factors in each geographic area. We believe the 75th percentile most accurately meets the intent of section 1720G given this range of wage rates, and is reasonable as a middle point between the 50th and 90th percentiles as identified by BLS for geographic areas. We do not believe the setting of the rate at the 75th percentile significantly hinders an eligible veteran's opportunities to receive the assistance they require.

The regulation text in the interim final rule at § 71.40(c)(4)(v), however, did not make clear that VA uses this 75th percentile per geographic area as a factor in calculating the stipend. We therefore make changes to § 71.15 and § 71.40(c)(4)(v) to clarify this point.

We also make clarifying changes to § 71.15 and § 71.40(c)(4)(v) unrelated to public comments to better describe how the Bureau of Labor Statistics (BLS) wage rates and Consumer Price Index (CPI) are used in calculating stipend amounts. Because BLS wage rates are generally based on the previous year's data, the interim final rule factored in a cost of living adjustment based on the CPI to calculate the current year's hourly wage rate. At the time the interim final rule was drafted, BLS provided 2009 wage rates. Shortly thereafter, BLS published its 2010 wage rates, and VA began issuing stipends based on the 2010 BLS wage rates adjusted by the CPI. The BLS's 2011 wage rates, however, reflected some dramatic decreases in the hourly wages of home health aides in various geographic areas of the United States. Application of the 2011 BLS hourly wage rate for all Primary Family Caregivers' stipends would have resulted in decreases in monthly stipend payments for 34% of approved Primary Family Caregivers, the largest decrease being over $6.00 per hour. We never intended that Primary Family Caregivers should be subject to decreased stipend payments from year to year due to decreased BLS rates or a decreased CPI rate. Therefore, we clarify in this final rule that VA's intent is to use the most recent data from the BLS

on hourly wage rates for home health aides as well as the most recent Consumer Price Index for All Urban Consumers (CPI–U), unless using this most recent data for a geographic area would result in an overall BLS and CPI–U combined rate that is lower than that applied in the previous year for the same geographic area. If using this most recent data would result in a BLS and CPI–U combined rate for a geographic area that is lower than that applied in the previous year, the BLS hourly wage rate and CPI–U that was applied in the previous year for that geographic area will be utilized to calculate the Primary Family Caregiver stipend. We note that the CPI–U has been and will continue to be used in the stipend calculation because its representative population coverage is more comprehensive than that of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), and therefore the CPI–U is more representative of Primary Family Caregivers around the country. (The CPI–U covers approximately 87 percent of the total population, and the CPI–W covers approximately 32 percent of the population and is a subset of the CPI–U population). More specifically, the annual CPI–U as used in the stipend calculation is a national average, based on a U.S. city average for the expenditure category ''care of invalids and elderly at home.'' This expenditure category is most representative, within the more general ''medical care'' expenditure category, of the type of care provided by most Family Caregivers.

To clarify this calculation methodology, we add a new definition of the term ''combined rate'' to § 71.15, to refer to the BLS hourly wage rate for home health aides at the 75th percentile in the eligible veteran's geographic area of residence, multiplied by the CPI–U. This definition will further clarify that the combined rate will be determined for each geographic area on an annual basis by comparing (1) the product of the most recent BLS hourly wage rate for home health aides at the 75th percentile in the geographic area and the most recent CPI–U, with (2) the combined rate applied for the geographic area in the previous year. Whichever of these is higher will represent the combined rate for that geographic area that year. We make corresponding revisions to the text of § 71.40(c)(4)(v) to reference the term ''combined rate'' as it is defined in § 71.15.

The combined rate will apply for the entire affected geographic area, such that existing Primary Family Caregivers and new Primary Family Caregivers in a geographic area will receive a stipend calculated with the same combined rate, even though new Primary Family Caregivers would not be adversely affected by a lower BLS hourly wage rate or a lower CPI–U than the previous year. Using one combined rate for both new and existing Primary Family Caregivers in the same geographic area will ensure equity in stipend payments between Primary Family Caregivers of eligible veterans requiring the same number of hours of personal care services, and permits VA to avoid costly and cumbersome adjustments that would be required if we allowed multiple, different combined rates to apply in the same geographic area—costs that were not considered in the impact analysis associated with this regulation, and burdens that were never intended to be a consequence of the interim final rule. Under this methodology, the number of hours of caregiver assistance required would be the only basis for different stipend amounts in each particular geographic area, and no Primary Family Caregiver will see downward fluctuations in their stipend amount from year to year unless the number of required hours of assistance decreases or the eligible veteran moves to a geographic area with a lower combined rate. This revision ensures that Primary Family Caregivers will not unexpectedly lose monetary assistance upon which they had come to rely based on their participation in the Program of Comprehensive Assistance for Family Caregivers. This is the fairest result for all Family Caregivers, and best effectuates our original intent. Moreover, this revision is consistent with the statutory requirement at 38 U.S.C. 1720G(a)(3)(C)(ii) to ensure that stipends are ''not less than'' the monthly amount a commercial home health entity would pay in the geographic area.

We are publishing this revision as part of this final rulemaking because prior notice and comment is not required. This revision is consistent with the calculation methodology set forth in the interim final rule because VA still uses the BLS rate per geographic area and multiplies that rate by the CPI–U (among other factors) to calculate the stipend amount. This revision merely ensures that Primary Family Caregivers' stipends will not decrease simply because the BLS wage rate for their geographic area or the CPI–U has decreased. Because these changes effectuate our original intent, are consistent with the governing statutory authority, serve only to benefit both Primary Family Caregivers and VA, and cannot be applied in a manner detrimental to the public, a new notice and comment period is not necessary.

Expansion of Symptoms Considered in ''Supervision or Protection'' Categories in § 71.15

One commenter argued that VA should expand the listed reasons an individual may require supervision or protection in § 71.15 (in the definition of ''[n]eed for supervision or protection based on symptoms or residuals of neurological or other impairment or injury''), to ensure that symptoms of depression, anxiety disorder, and post-traumatic stress disorder (PTSD) were included, and thereby to ensure that these disorders were considered as qualifying injuries under this rule. The commenter acknowledged that the current criteria of ''[s]elf regulation,'' ''[d]ifficulty with sleep regulation,'' and ''[s]afety risks'' in § 71.15 are criteria that may be met by veterans suffering from PTSD or severe depression, and thus that such veterans could be eligible for a Family Caregiver (assuming all other eligibility requirements are met). However, the commenter also advocated for additional criteria such as ''significant avoidant behaviors'' for someone with PTSD, or ''fear of leaving the home'' and related fearfulness symptoms experienced in conjunction with anxiety disorders.

We acknowledge that a significant number of post-9/11 veterans suffer from PTSD, anxiety disorders, and depression, which may create a need for personal care services. We also acknowledge that the behaviors described by the commenter may be present in this veteran population. However, we disagree that the current regulation does not adequately account for these veterans and servicemembers in the existing eligibility criteria. We therefore do not make any substantive changes.

The currently listed symptoms in § 71.15 pertaining to the need for ''supervision or protection'' are adequate to ensure eligibility for veterans and servicemembers with these disorders and to ensure that Primary Family Caregivers of eligible individuals with these disorders receive a monthly stipend comparable to the stipend paid to Primary Family Caregivers of eligible individuals whose need is based on other types of injuries. As discussed in the interim final rule and as is clear by the regulations themselves, the Program of Comprehensive Assistance for Family Caregivers seeks to train Family Caregivers to provide specific services to seriously injured eligible veterans in a home environment. It is not designed to compensate caregivers of veterans

and servicemembers simply because the veteran or servicemember has been injured or suffers from lasting effects of an injury that, while serious and disruptive, does not rise to the level of creating a need for protection or supervision. We do not minimize the impact of any symptoms suggested by the commenter. However, we cannot agree that a veteran or servicemember should be eligible for a Family Caregiver, or that a Family Caregiver's stipend should be increased, based on the veteran or servicemember having symptoms like avoidant behavior, unless those symptoms establish impairment that meets the statutory criterion of a need for protection or supervision. For example, a veteran or servicemember whose psychological disorder produces significant avoidant behavior requires mental health care but does not require a compensated caregiver, unless that avoidant behavior poses a safety risk, affects the veteran's or servicemember's ability to plan or organize, causes delusions, or results in one of the other criteria under ''[n]eed for supervision or protection . . .'' in § 71.15 (or if it affects the veteran's or servicemember's ability to perform ADLs). All of the symptoms listed under ''[n]eed for supervision or protection . . .'' in § 71.15 strongly indicate that an individual actually requires supervision or protection, and the list should not be expanded to include symptoms that are serious and that may require medical intervention, but do not require assistance from a Family Caregiver to provide supervision or protection.

We make one minor non-substantive correction to the regulation text in the definition of ''[n]eed for supervision or protection based on symptoms or residuals of neurological or other impairment or injury'' in § 71.15, by removing the word ''and'' in paragraph (6) of the definition, and replacing it with the word ''or.'' This clarifies that a need for supervision or protection may be based on ''any of the following reasons'' under paragraphs (1)–(7) in that definition. See 38 CFR 71.15. This clarification is consistent with the clear language of § 71.15, and does not create any new restrictions.

Validity and Reliability of the Criteria in § 71.15 as an Assessment Instrument, and of the Scoring Methodology in § 71.40(c)(4)(iii)

We received several comments that the activities and symptoms listed in § 71.15 do not accurately assess the number of caregiver hours required for provision of personal care services. There were several bases offered for these comments; however, we do not make any changes.

First, commenters stated that the listed activities and symptoms do not comprise a reliable or valid clinical assessment because they are derived from three different clinical assessments, the Katz Basic Activities of Daily Living Scale (Katz), the UK Functional Independence Measure and Functional Assessment Measure (FIM+FAM), and the Neuropsychiatric Inventory (NPI). Commenters asserted that though each of these assessments separately are known to be valid and reliable measuring instruments, taking portions from each to create a new scale does not then make VA's criteria in § 71.15 reliable or valid. Instead, it was suggested by a commenter that VA administer each of these three assessments separately.

These comments may be based on a misunderstanding of the purposes of the applicable definitions in § 71.15. The criteria listed as ADLs or as establishing the need for supervision or protection serve two purposes. First, if any one of those criteria are met, a veteran or servicemember may be found under § 71.20(c)(1) or (2) to be in need of personal care services and thus, to be eligible for a Family Caregiver (if other eligibility criteria are met). Second, meeting one or more of those criteria establishes that the Primary Family Caregiver of an eligible veteran will be eligible to receive a stipend in recognition that the caregiver may in fact be providing services for which VA would otherwise need to hire a professional home health aide. It is unclear whether the commenters assert that the criteria under these definitions in § 71.15 are inappropriate for the first, second, or both of these purposes.

We use criteria from the three assessment tools described above because these are criteria that are typically used in considering a patient's level of impairment; we are not suggesting that our regulations be used as a substitute for these tools when the tools are being used for their intended purposes in the context of the treatment provided to an eligible veteran. At the same time, none of these three assessment tools are designed to identify or measure dependence in activities that would specifically render a veteran or servicemember in need of a caregiver who is not a medical professional. Nor are any of the three assessment tools designed to determine those activities for which a stipend ought to be provided to a Primary Family Caregiver providing certain care in the home. Using the three assessment tools in their original design would not, therefore, serve either of the purposes of the criteria listed in § 71.15 (*i.e.,* to determine which veterans and servicemembers are in need personal care services and level of dependence), and we make no changes based on these comments. We note that there were many comments concerning the addition of new criteria, and we have addressed these comments elsewhere in this rulemaking.

In addition, the commenters argued that VA has not adequately tested the scoring methodology in § 71.40(c)(4)(iii) to ensure that the actual amount and degree of personal care services will be captured for purposes of the stipend calculation. Specifically, commenters asserted that the aggregate scoring in § 71.40(c)(4)(iii)–(iv) inaccurately creates a presumption of an individual's need, and does not appropriately account for the actual time required to provide caregiver assistance. We concede that we did not have an opportunity to field test this formula prior to implementation of the interim final rule. If, in the future, we determine that the formula is inadequate, we will make necessary regulatory changes. At this time, we do not believe that changes are required. The current scoring methodology is broadly designed to ensure that an eligible veteran does not have to be rated as fully dependent in a majority of the 14 criteria in § 71.15 to receive the full stipend amount. In fact, an eligible veteran's need for personal care services can be relatively minor, and yet a stipend amount will still be provided. For example, the Primary Family Caregiver of an eligible veteran who scores a ''1'' in the category of dressing, which means that the eligible veteran can perform 75 percent or more of that task independently, and who scores a ''0'' in all other categories would receive, under § 71.40(c)(4)(iv)(C), a stipend amount based on the eligible veteran requiring 10 hours of caregiver assistance per week—which is one fourth of the total number of hours that can be authorized under § 71.40(c)(4)(iv).

One commenter additionally asserted that the aggregate scoring system in § 71.40(c)(4)(iii) is unfair to those eligible veterans who may only rate in a few ''supervision and protection'' categories, but who nonetheless may require a full time caregiver. The commenter further suggested that the ''supervision and protection'' categories should be weighed more heavily in the aggregate scoring, so that an eligible veteran who may rate in only one of these categories could qualify for a full time caregiver. The commenter

provided examples in support of this assertion. For instance, one example described a veteran diagnosed with severe depression who was able to perform all ADLs, and whose symptoms included ''utter lack of energy, difficulty in even getting out of bed or concentrating on tasks, and feelings of hopelessness.'' This example further posited that because the veteran's symptoms were not controlled by medication the veteran in turn required ''virtually full time watch'' from his family members to ensure he did not ''attempt to harm himself.'' In this scenario, the commenter surmised that the veteran would rate as a ''4'' (needing total assistance) for three protection/supervision categories under § 71.15: safety risk, self regulation, and difficulty with planning and organizing. The commenter stated that the overall rating of ''12'' only presumes 10 hours per week of caregiver assistance, and that the stipend amount for 10 hours was too low to support a caregiver who must provide ''virtually full time watch'' to protect the veteran. While the commenter would use this scenario to show that a full time caregiver is needed, we do not agree that the protection or supervision categories should be weighted differently than the ADL categories, such that dependence in three supervision or protection categories (or even in a single protection or supervision category as used in another example by the commenter) would presume the full stipend amount. In fact, we find that the circumstances described in the commenter's example above in support of this assertion depict a scenario that is arguably unsafe for the veteran. If a veteran requires ''virtually full time watch'' to ensure that they do not harm themselves, an in-home care setting may not be the most appropriate level of care. The Program of Comprehensive Assistance for Family Caregivers is not designed to train Family Caregivers to the same levels as professional clinical care providers who provide continuous 24-hour, seven day a week support, and such providers with expertise in mental health would be the only individuals qualified to attempt to prevent self-harm. Additionally, we believe that weighing the supervision/protection categories more heavily than the ADL categories is unfair for those eligible veterans whose stipend amounts would be based solely on their need for assistance with ADLs.

Retroactive Provision of Benefits

Multiple commenters asserted that VA unnecessarily delayed the implementation of the Program of Comprehensive Assistance for Family Caregivers, which placed undue stress on an already strained population. These commenters argued that VA could mitigate this delay by retroactively providing Family Caregiver benefits. Particularly, one commenter asserted that VA should make all applicable Family Caregiver benefits effective retroactive to May 5, 2010. We do not have the authority to make this change. The Caregivers Act specifically provided for an effective date for the caregiver programs under 38 U.S.C. 1720G of January 30, 2011. See Pub. L. 111–163, title I, section 101(a)(3)(A) (stating that the amendments made by this subsection shall take effect ''270 days after the date of the enactment'').

Another commenter stated that stipend payments specifically should be retroactively provided to Family Caregivers from the intended effective date of the 38 U.S.C. 1720G, January 30, 2011. We regret that our program, while authorized as of January 2011, did not actually become operational until May 2011. The Caregivers Act established an unprecedented set of benefits to be administered to eligible veterans and non-veterans, as well as intricate eligibility criteria which required VA to promulgate regulations, a time intensive process, before we could legally provide stipend payments.

Currently, the stipend is paid monthly for personal care services that the Primary Family Caregiver provided in the prior month. Benefits due prior to designation of the Primary Family Caregiver, based on the date of application, will be paid retroactive to the date that the joint application is received by VA or the date on which the eligible veteran begins receiving care at home, whichever is later. While we acknowledge that the earliest date VA began accepting caregiver applications was after the effective date of 38 U.S.C. 1720G, we cannot provide stipend payments retroactive to that effective date for all current Primary Family Caregivers. This would create an unfair advantage for those who filed applications later than others, between the period of May 5, 2011, and the present.

Revocation of a Family Caregiver

Under § 71.45(a), a Family Caregiver may request a revocation of caregiver status in writing which provides the date of revocation, and all Family Caregiver benefits will continue until the date of revocation. VA may further assist the revoking Family Caregiver in transitioning to alternative health care and mental health coverage, if requested and applicable. 38 CFR 71.45(a). One commenter stated that the rule should also require that the revoking caregiver provide notice to the eligible veteran, and should specify an amount of time in which the Family Caregiver must continue to provide assistance after such notice is provided (with the exception of cases where the revoking caregiver may be abusing or neglecting the veteran). As stated in the interim final rule, participation in the Program of Comprehensive Assistance for Family Caregivers is purely voluntary. Accordingly, VA may not compel a Family Caregiver to continue providing assistance beyond the date provided in the written notice to VA, nor may VA compel a Family Caregiver to provide notice to the eligible veteran. However, we do amend § 71.45(a) to provide that VA will notify the eligible veteran verbally and in writing when the Family Caregiver requests revocation. We make an additional change to § 71.45(b)(2) to remove the word ''removal'' and replace it with the word ''revocation,'' for consistency and ease of understanding. We also amend § 71.45(b)(3) to be consistent with § 71.45(c), regarding VA's actions prior to making a formal revocation. The portion of § 71.45(b)(3) concerning VA actions in suspending Family Caregiver responsibilities now state that ''if VA suspects that the safety of the eligible veteran is at risk, then VA may suspend the caregiver's responsibilities, and remove the eligible veteran from the home if requested by the eligible veteran, or take other appropriate action to ensure the welfare of the eligible veteran, prior to making a formal revocation.'' We did not intend to limit VA's ability to ''take other appropriate action to ensure the welfare of the eligible veteran'' to § 71.45(c) only, when § 71.45(b)(3) also discusses what may occur if VA suspects that the safety of the eligible veteran is at risk. This is not a substantive change to § 71.45(b)(3), and does not create any new restrictions or criteria.

We further amend § 71.45(b)(4)(ii) and (b)(4)(iii) because they may be misconstrued to prohibit the provision of benefits for a revoked Family Caregiver for any portion of the 30 days after the date of revocation, if another Family Caregiver is designated within that 30 days. The intent of § 71.45(b)(4)(ii) is that there should not be any overlap in the provision of benefits for a revoked Primary Family Caregiver and newly designated Primary Family Caregiver of an eligible veteran, and the intent of § 71.45(b)(4)(iii) is that a maximum of three Family Caregivers for an eligible veteran may be designated and receiving benefits at one time. We additionally clarify that the

intent of § 71.45(b)(4)(i) remains that benefits should be immediately terminated after the revocation date when VA determines the Family Caregiver has committed fraud or abused or neglected the eligible veteran. Similarly, we clarify that the intent of § 71.45(b)(4)(iv) remains that benefits should be immediately terminated after the revocation date when the revoked individual had been living with the eligible veteran and moves out, or the revoked individual abandons or terminates his or her relationship with the eligible veteran. We note that we also amend § 71.45(b)(4)(ii) and (b)(4)(iii) to use the word ''designated'' versus ''assigned'' when referring to new replacement Family Caregivers. Our regulations do not define the word ''assigned,'' and we did not intend to create any ambiguity with regards to the process whereby Family Caregivers are approved and designated as such by VA. We amend § 71.45(b)(4)(i)–(iv) to reflect these clarifications. These are not substantive revisions, and they do not create any new restrictions or interpretations. Corresponding revisions are made to § 71.45(b)(4) and § 71.45(c).

Finally, we make clarifying edits to § 71.45 to clarify that VA will, if requested and applicable, assist revoked Family Caregivers in transitioning to alternative health care coverage and mental health services. The word ''with'' before the phrase ''mental health services'' in §§ 71.45(a), (b)(4), and (c) is extraneous and is removed for clarity. In addition, we clarify the phrase ''fraud or abuse or neglect of the eligible veteran'' in § 71.45(b)(4)(i). We amend §§ 71.45(a), (b)(4), (b)(4)(i), and (c) to reflect these clarifications. These are not substantive revisions, and they do not create any new restrictions or interpretations.

CHAMPVA Benefits

Commenters raised issues related to the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) benefits available to Primary Family Caregivers under this rule. One commenter asserted that a Primary Family Caregiver who is the spouse of a veteran with a service-connected disability rated at 100 percent, who becomes eligible for CHAMPVA benefits under this rule, should be able to retain CHAMPVA benefits despite revocation of caregiver status if the spouse otherwise would qualify for CHAMPVA due to a veteran's 100 percent service-connected disability rating. We believe this comment argued for the retention of CHAMPVA benefits for this group of spouses, based on the independent eligibility criterion for CHAMPVA benefits for a spouse of a veteran who has been adjudicated by VA as having a permanent and total service-connected disability. See 38 CFR 17.271(a)(1) (identifying as eligible for CHAMPVA benefits ''[t]he spouse or child of a veteran who has been adjudicated by VA as having a permanent and total service-connected disability''). We do not make any changes based on this assertion. If a Primary Family Caregiver is independently eligible for CHAMPVA benefits—irrespective of his or her status as a caregiver—then that caregiver's revocation will not affect his or her eligibility for CHAMPVA on that other basis. In order to maintain CHAMPVA coverage post-revocation, VA would need to adjudicate such independent eligibility. We would, of course, assist the revoked family member in this process during the applicable grace period or as otherwise provided by § 71.45. However, we note that a veteran's ''100 percent'' disability rating does not necessarily make that veteran's spouse eligible for CHAMPVA benefits under § 17.271(a)(1). Though a veteran's 100 percent disability rating is considered a ''total'' disability rating, it is not necessarily considered a ''permanent'' disability rating. We clarify this due to the commenter's example of a ''100 percent'' disability rating.

To the extent that the commenter may believe that Family Caregivers who are eligible solely based on their status as a caregiver should retain eligibility for CHAMPVA even after their status is revoked, we disagree. Under 38 U.S.C. 1720G(a)(3)(A)(ii)(IV), VA must provide certain Primary Family Caregivers with medical care under 38 U.S.C. 1781. VA administers section 1781 through the CHAMPVA program and its implementing regulations. Section 102 of the Caregivers Act added paragraph (4) under subsection (a) of section 1781 to expand CHAMPVA eligibility to any ''individual designated as a primary provider of personal care services under [38 U.S.C. 1720G(a)(7)(A)] . . . who is not entitled to care or services under a health-plan contract (as defined in [38 U.S.C. 1725(f)]) . . . [who is] not otherwise eligible for medical care under chapter 55 of title 10.'' Thus, for individuals eligible for CHAMPVA based solely on their status as a Primary Family Caregiver, VA is authorized to provide CHAMPVA only for the family member's duration as a Primary Family Caregiver.

An additional comment was that CHAMPVA benefits should be retroactive, first to January 31, 2011, for all currently designated Primary Family Caregivers, and then to the date a caregiver application was submitted for all future Primary Family Caregivers. First, we note that all Primary Family Caregiver benefits are effective as of the date the signed joint application is received by VA (or the date on which the eligible veteran begins receiving care at home, if later), if the application is approved, to include CHAMPVA benefits. This means that, in practice, an individual who receives private medical care prior to being designated as a Primary Family Caregiver after his or her joint application is received by VA, and who was not already entitled to care or services under a health-plan contract or eligible for medical care under chapter 55 of title 10, will, once approved and designated and determined eligible for CHAMPVA, be able to request reimbursement for that medical care retroactive to the date the joint application was received by VA. Claims from Primary Family Caregivers for such retroactive reimbursement for medical care are subject to the same procedural requirements imposed by CHAMPVA regulations for all CHAMPVA beneficiaries. See 38 CFR 17.272 *et seq.*

However, VA cannot provide such reimbursement for private medical care retroactive to January 30, 2011, for the same reasons that we will not provide stipend payments retroactive to any date that is prior to the actual date the joint application is received by VA.

One commenter stated that a Primary Family Caregiver's eligibility for CHAMPVA should not only be considered when they are first designated as a caregiver, but that a Primary Family Caregiver may enroll in CHAMPVA at any time after having begun to serve as a Primary Family Caregiver, for example, should they lose other health coverage after designation as a Primary Family Caregiver. This is the correct interpretation of § 71.40(c)(3), which states that ''Primary Family Caregivers are to be considered eligible for enrollment in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), unless they are entitled to care or services under a health-plan contract.'' We do not make any changes based on this comment because the commenter properly interpreted the rule and we do not see any inherent ambiguity. We note, however, that the commenter's additional assertion that the wording of § 71.40(c)(3) is vague and weakens the CHAMPVA eligibility provision by including the phrase ''to be considered'' is addressed by the removal of that phrase from the rule. Section 71.40(c)(3) is further clarified by adding

reference to the statutory authority for CHAMPVA (38 U.S.C. 1781), which specifically identifies Primary Family Caregivers as eligible for CHAMPVA.

Mental Health Services

One commenter expressed confusion related to counseling and other mental health services available to Family Caregivers, and further requested that it be more clearly stated in the rule that Family Caregivers may receive counseling and other services independent of whether those services are provided in connection with the treatment of a disability for which the veteran is receiving treatment from VA. Under §§ 71.40(b)(5) and 71.40(c)(1), all Family Caregivers may receive ''[c]ounseling, which . . . includes individual and group therapy, individual counseling, and peer support groups.'' We do not specify in §§ 71.40(b)(5) or 71.40(c)(1) that such counseling must be ''in connection with the treatment of a disability for which the veteran is receiving treatment through VA,'' which is the criteria that General Caregivers must meet to receive certain counseling and other mental health services under § 71.50(a). As explained in the interim final rulemaking, counseling for Family Caregivers may be provided for reasons not in connection with the treatment of a veteran, unlike the ''[c]ounseling and other services'' provided to General Caregivers under §§ 71.40(a)(3) and 71.50(a). See 76 FR 26153, May 5, 2011 (explaining the differences in statutory authorities to provide counseling to Family Caregivers versus to General Caregivers, and the subsequent differences in eligibility requirements). We amend § 71.40(b)(5) to make clear that counseling provided to Family Caregivers does not have to be in connection with the treatment of a disability for which the eligible veteran is receiving treatment from VA. The commenter must understand as well that because all General Caregiver benefits in § 71.40(a) are generally incorporated into the benefits listed for Secondary Family Caregivers by § 71.40(b)(1) and for Primary Family Caregivers by § 71.40(c)(1), Family Caregivers could receive both counseling services defined in § 71.40(b)(5), as well as those defined for General Caregivers in § 71.40(a)(3) (under § 71.50).

Mandatory Family Caregiver Training To Provide Specific Treatment

One commenter stated that VA should consider requiring that Family Caregivers, who provide personal care services for veterans with PTSD, receive training in the specific treatment modalities of eye movement desensitization and reprogramming, and myofascial release, to assist veterans with anger management and pain management issues. We do not make any changes to the rule based on these comments. Caregiver training as set forth in § 71.25(d) is designed to cover the essential components of home-based care (called ''core competencies'' in the rule), and prepare the caregiver to provide assistance with ''personal care services'' as that term is defined in section 1720G(d)(4) and § 71.15. We believe that all of these identified competencies are present to at least some degree in virtually all situations in which we will find a veteran or servicemember eligible for a Family Caregiver. If a particular eligible veteran presents complex challenges in any or all of the competencies in § 71.25(d), we will provide more specific training to the Family Caregiver. However, we cannot mandate by regulation training in very specific treatment modalities that may not be applicable or beneficial to all eligible veterans.

Respite Care

One commenter expressed concern that the rule did not clearly state that respite care provided for Primary Family Caregivers ''shall be medically and age-appropriate and include in-home care,'' as is required by 38 U.S.C. 1720G(a)(3)(B). The commenter further stated that if the statutory requirement that respite care be ''age-appropriate and include in-home care'' is not explicitly stated in the rule, then VA personnel may erroneously advise caregivers that respite options are limited to VA nursing home placement. We note that the analysis of respite care costs in the rule assumes that ''respite care will be primarily in-home care for 24 hours per day,'' and VA does not intend to educate its personnel contrary to the rule and statutory requirements. 76 FR 26162, May 5, 2011. However, we agree that § 71.40(c)(2) should be clarified to conform to the requirements in section 1720G(a)(3)(B), and therefore we have revised § 71.40(c)(2) to indicate that respite care provided for Primary Family Caregivers ''shall be medically and age-appropriate and include in-home care.''

Beneficiary Travel

Commenters stated that the rule does not clearly specify that Family Caregivers are eligible for beneficiary travel benefits, and does not clearly specify the scope of those travel benefits. Beneficiary travel under 38 CFR part 70 is authorized for Family Caregivers in § 71.25(d) and § 71.40(b)(6). Section 71.40(b)(6) states that Family Caregivers ''are to be considered eligible for beneficiary travel under 38 CFR part 70.'' Commenters expressed concern that the phrase ''are to be considered'' is vague and ambiguous and suggested that the phrase could be used to exclude Family Caregivers who are eligible for beneficiary travel under section 104 of Public Law 111–163. This is not VA's intent; § 71.40(b)(6) is therefore amended to remove the phrase ''to be considered.''

In addition, we believe the language in § 71.40(b)(6) should be revised to clarify the scope of benefits authorized under 38 U.S.C. 111(e)(2), as added by section 104 of Public Law 111–163. Section 111(e)(2) of title 38, U.S.C., states: ''Without regard to whether an *eligible veteran entitled to mileage* under this section for travel to a Department facility for the purpose of medical examination, treatment, or care requires an attendant in order to perform such travel, an attendant of such veteran described in subparagraph (B) may be allowed expenses of travel (including lodging and subsistence) upon the same basis as such veteran.'' 38 U.S.C. 111(e)(2)(A) (emphasis added). This means that a veteran must be eligible for mileage under 38 U.S.C. 111 in order for his or her family caregivers to receive travel benefits during the period of time in which the eligible veteran is traveling to or from a VA facility for and throughout the duration of the eligible veteran's examination, treatment or care episode. We note that Family Caregivers may receive travel benefits for training purposes under § 71.25(d) without respect to the veteran's eligibility for beneficiary travel based on the authority in 38 U.S.C. 1720G(a)(6)(C), which is not tied to 38 U.S.C. 111(e). We have revised the text of § 71.40(b)(6) so it states that ''Primary and Secondary Family Caregivers are eligible for beneficiary travel under 38 CFR part 70 if the eligible veteran is eligible for beneficiary travel under 38 CFR part 70.''

Commenters also expressed concern that Family Caregivers would be denied benefits based on language in the supplementary information to the interim final rule that beneficiary travel would be available ''subject to any limitations or exclusions under [38 CFR] part 70,'' the regulations governing VA's beneficiary travel benefits (76 FR 26152, May 5, 2011), and that VA has not revised its beneficiary travel regulations to include Family Caregivers among those who are eligible persons under

§ 70.10. Our statement that the provision of beneficiary travel is subject to the limitations in part 70 does not appear in regulation, and we do not make any changes based on this comment. However, we clarify that the purpose of that statement was to express that Family Caregivers receiving beneficiary travel must comply with the procedural requirements and restrictions in part 70, not to impose new restrictions that do not apply to any other applicants for beneficiary travel benefits. Section 111(e)(2) of title 38, U.S.C., as amended by section 104 of the Caregivers Act, states that Family Caregivers ''may be allowed expenses of travel . . . upon the same basis as [the] veteran'' who is traveling for purposes of medical examination, treatment, or care; it does not provide an independent right to beneficiary travel benefits that would not be subject to the procedures established in 38 CFR part 70, which are applicable to all individuals seeking beneficiary travel benefits. Travel benefits under 38 U.S.C. 1720G(a)(6)(C) for purposes of Family Caregiver training were also linked to 38 CFR part 70 for ease of administering the benefits—instead of establishing a separate program of travel benefits for training purposes. However, we reiterate that for purposes of Family Caregiver training, a veteran's independent eligibility under 38 CFR part 70 is not relevant.

Another commenter cited anecdotal reports that some VA personnel have not properly understood the scope of beneficiary travel benefits offered to Family Caregivers. We note that this is a new legal provision, and concede that some beneficiary travel authorizers may not have been adequately trained at the time that the commenter received the anecdotal reports. We regret this, but note that we are currently conducting formal trainings in VA facilities to educate VA personnel on Family Caregiver eligibility for beneficiary travel benefits, consistent with section 104 of Public Law 111–163. Training, and not regulatory revision, is required to address this problem.

Finally, we note that we are currently in the process of drafting amendments to part 70 that will clearly state that Family Caregivers may receive beneficiary travel benefits (under 38 U.S.C. 111(e)(2) and under 38 U.S.C. 1720G(a)(6)(C)) in the same manner, and subject to the same procedural requirements and limitations, as any individual currently identified as eligible in 38 CFR 70.10. In the interim, 38 U.S.C. 111(e), as amended by section 104 of the Caregiver Act, authorizes VA to provide to Family Caregivers the ''expenses of travel (including lodging and subsistence)'' during the period of time in which the eligible veteran is traveling to and from a VA facility for the purpose of medical examination, treatment, or care, and the duration of the medical examination, treatment, or care episode for the eligible veteran. VA will rely upon that statutory authority as well as 38 U.S.C. 1720G(a)(6)(C) and our regulations in part 70 as authority to provide beneficiary travel benefits to eligible Family Caregivers.

Effective Date of Benefits

Section 71.40(d)(1) indicates that Family Caregiver benefits are effective as of the date that the signed joint application is received by VA or the date the eligible veteran begins receiving care at home (whichever is later), but that these benefits are not provided until a Family Caregiver has been designated. Family Caregivers must complete all required training and instruction to become so designated no later than 30 days after the date the joint application was submitted or, if the application was placed on hold for a GAF assessment, 30 days after the hold has been lifted.

Through implementing § 71.40(d)(1), VA has discovered that the 30-day timeframe is in many instances too brief to allow Family Caregivers to complete all required training. To avoid the delay that starting a new application would create, we are amending § 71.40(d)(1) to extend this timeframe to 45 days, and to include a mechanism to waive the need for a new application beyond 45 days in certain instances. VA may extend the 45-day period for up to 90 days after the date the joint application was submitted or, if the application has been placed on hold for a GAF assessment, for up to 90 days after the hold has been lifted. Such an extension may either be based on training identified under 38 CFR 71.25(d) that is still pending completion, or hospitalization of the eligible veteran. This regulatory change is a liberalization of a requirement, and does not add any restrictions for those otherwise eligible veterans and Family Caregivers with regards to the effective date of benefits.

Non-Substantive Change to § 71.30(b)(2)

Section 71.30(b)(2) provides that a ''covered veteran'' for purposes of the Program of General Caregiver Support Services is a veteran who is enrolled in the VA health care system and needs personal care services because the veteran ''[n]eeds supervision or protection based on symptoms or residuals of neurological care or other impairment or injury.'' The word ''care'' in § 71.30(b)(2) is extraneous and is removed to be consistent with the relevant statutory provision related to covered veterans in the Program of General Caregiver Support Services, 38 U.S.C. 1720G(b)(2)(B).

Administrative Procedure Act

In accordance with 5 U.S.C. 553(d)(3), the Secretary of Veterans Affairs concluded that there was good cause to publish this rule with an immediate effective date. Under the interim final rule, Caregiver benefits have been provided continuously since May 5, 2011. A delayed effective date for this final rule could confuse current Caregivers or VA employees, possibly leading to the misperception that existing Caregiver benefits will be interrupted during the 30-day period between publication of this final rule and the effective date. Therefore, there is good cause to publish this rule with an immediate effective date.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

The interim final rule included a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA submitted a copy of that rulemaking to OMB for review. OMB assigns a control number for each collection of information it approves. VA 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.

In the interim final rule, we stated that § 71.25(a) contained collection of information provisions under the Paperwork Reduction Act of 1995, and we requested public comment on those provisions in the document published in the **Federal Register** on May 5, 2011 (76 FR 26158).

We did not receive any comments on the collection of information contained in the interim final rule, and this final rule does not change the burden and

number of respondents because eligibility criteria did not change. OMB approved these new information collection requirements associated with the interim final rule and assigned OMB control number 2900–0768.

Regulatory Flexibility Act

The Acting Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This regulatory action affects individuals and will not affect any small entities. Therefore, under 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by OMB, as any regulatory action 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 this Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined that it is an economically significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Pension for Non-Service-Connected Disability for Veterans; 64.015, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on June 30, 2014, for publication.

List of Subjects

38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

38 CFR Part 71

Administrative practice and procedure, Caregivers program, Claims, Health care, Health facilities, Health professions, Mental health programs, Travel and transportation expenses, Veterans.

Dated: January 5, 2015.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For the reasons set forth in the preamble, the interim final rule amending 38 CFR 17.38(a)(1)(vii) and 38 CFR part 71, that was published at 76 FR 26148 on May 5, 2011, is adopted as a final rule with the following changes:

PART 71—CAREGIVERS BENEFITS AND CERTAIN MEDICAL BENEFITS OFFERED TO FAMILY MEMBERS OF VETERANS

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

Authority: 38 U.S.C. 501, 1720G, unless otherwise noted.

■ 2. Amend § 71.10 by revising paragraphs (a) and (b) to read as follows:

§ 71.10 Purpose and scope.

(a) *Purpose.* This part implements the Program of Comprehensive Assistance for Family Caregivers, which, among other things, provides certain benefits to eligible veterans who have incurred or aggravated serious injuries during military service, and to their caregivers. This part also implements the Program of General Caregiver Support Services, which provides support services to caregivers of covered veterans from all eras who are enrolled in the VA health care system.

(b) *Scope.* This part regulates the provision of Family Caregiver benefits and General Caregiver benefits authorized by 38 U.S.C. 1720G. Persons eligible for such benefits may be eligible for other VA benefits based on other laws or other parts of this title.

* * * * *

■ 3. Amend § 71.15 by:

■ a. Adding the definition for ''Combined rate'' in alphabetical order.

■ b. In the definition for ''In the best interest'', removing all references to ''eligible veteran'' and adding, in each place, ''veteran or servicemember'', and removing ''Family Caregiver program'' and adding, in its place, ''Program of Comprehensive Assistance for Family Caregivers''.

■ c. In the definition for ''Need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury'', removing ''and'' at the end of paragraph (6) and adding, in its place, ''or''.

■ d. Revising the definition for ''Primary care team''.

The addition and revision read as follows:

§ 71.15 Definitions.

Combined rate refers to the Bureau of Labor Statistics (BLS) hourly wage rate for home health aides at the 75th percentile in the eligible veteran's geographic area of residence, multiplied by the Consumer Price Index for All Urban Consumers (CPI–U). The combined rate will be determined for each geographic area on an annual basis. For each geographic area, the combined rate will be the higher of:

(1) The most recent BLS hourly wage rate for home health aides at the 75th percentile in the geographic area multiplied by the most recent CPI–U; or

(2) The combined rate applied for the geographic area in the previous year.

* * * * *

Primary care team means a group of medical professionals who care for a patient and who are selected by VA based on the clinical needs of the patient. The team must include a primary care provider who coordinates the care, and may include clinical specialists (*e.g.,* a neurologist, psychiatrist, etc.), resident physicians, nurses, physicians' assistants, nurse practitioners, occupational or rehabilitation therapists, social workers, etc., as indicated by the needs of the particular patient.

* * * * *

§ 71.20 [Amended]

■ 4. Amend § 71.20 by:

■ a. In paragraph (c), removing ''(based on a clinical determination)'' and adding, in its place, ''(based on a clinical determination authorized by the individual's primary care team)''.

■ b. In paragraph (d), immediately following ''A clinical determination'', adding ''(authorized by the individual's primary care team)''.

■ 5. Amend § 71.25 by:

■ a. In paragraph (c)(1)(i) parenthetical, immediately before ''as appropriate'', adding ''to the extent possible and''.

■ b. In paragraph (d), removing ''designed by and provided through'' and adding, in its place, ''designed and approved by'' .

■ c. Revising paragraph (e).

The revision reads as follows:

§ 71.25 Approval and designation of Primary and Secondary Family Caregivers.

* * * * *

(e) *Initial home-care assessment.* No later than 10 business days after VA certifies completion of caregiver education and training, or should an eligible veteran be hospitalized during this process, no later than 10 days from the date the eligible veteran returns home, a VA clinician or a clinical team will visit the eligible veteran's home to assess the caregiver's completion of training and competence to provide personal care services at the eligible veteran's home, and to measure the eligible veteran's well being.

* * * * *

§ 71.30 [Amended]

■ 6. Amend § 71.30(b)(2) by removing ''care''.

■ 7. Amend § 71.40 by:

■ a. In paragraphs (b)(4), (c)(4)(iv)(A) through (C), and (c)(4)(v), removing all references to ''Caregiver'' and adding, in each place, ''caregiver''.

■ b. In paragraph (b)(5), adding, at the end of the paragraph, ''Counseling does not have to be in connection with the treatment of a disability for which the eligible veteran is receiving treatment from VA.''

■ c. In paragraph (b)(6), removing ''to be considered'', and adding, at the end of the sentence, ''if the eligible veteran is eligible for beneficiary travel under 38 CFR part 70.''

■ d. In paragraph (c)(2), adding, at the end of the paragraph, ''Respite care provided shall be medically and age-appropriate and include in-home care.''

■ e. Revising paragraph (c)(3).

■ f. In paragraphs (c)(4)(iv)(A) through (C), removing all references to ''then the eligible veteran is presumed to require'' and adding, in each place, ''then the caregiver will receive a stipend equivalent to the eligible veteran requiring''.

■ g. In paragraph (c)(4)(v), removing ''Bureau of Labor Statistics hourly wage for home health aides in the geographic area by the Consumer Price Index and then multiplying that total'' and adding, in its place, ''combined rate''.

■ h. Revising paragraph (d)(1).

The revisions read as follows:

§ 71.40 Caregiver benefits.

* * * * *

(c) * * *

(3) Primary Family Caregivers are eligible for enrollment in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) pursuant to 38 U.S.C. 1781, unless they are entitled to care or services under a health-plan contract (as defined in 38 U.S.C. 1725(f)).

* * * * *

(d) * * *

(1) *Effective date.* Caregiver benefits are effective as of the date that the signed joint application is received by VA or the date on which the eligible veteran begins receiving care at home, whichever is later. However, benefits will not be provided until the individual is designated as a Family Caregiver. Individuals who apply to be Family Caregivers must complete all necessary education, instruction, and training so that VA can complete the designation process no later than 45 days after the date that the joint application was submitted or, if the application has been placed on hold for a GAF assessment, 45 days after the hold has been lifted, or a new joint application will be required to serve as the date of application for payment purposes. VA may extend the 45-day period for up to 90 days after the date the joint application was submitted or, if the application has been placed on hold for a GAF assessment, for up to 90 days after the hold has been lifted. Such an extension may either be based on training identified under § 71.25(d) that is still pending completion, or hospitalization of the eligible veteran.

* * * * *

8. Revising § 71.45 to read as follows:

§ 71.45 Revocation.

(a) *Revocation by the Family Caregiver.* The Family Caregiver may request a revocation of caregiver status in writing and provide the present or future date of revocation. All caregiver benefits will continue to be provided to the Family Caregiver until the date of revocation. VA will, if requested and applicable, assist the Family Caregiver in transitioning to alternative health care coverage and mental health services. VA will notify the eligible veteran verbally and in writing of the request for revocation.

(b) *Revocation by the eligible veteran or surrogate.* The eligible veteran or the eligible veteran's surrogate may initiate revocation of a Primary or Secondary Family Caregiver.

(1) The revocation request must be in writing and must express an intent to remove the Family Caregiver.

(2) VA will notify the Family Caregiver verbally and in writing of the request for revocation.

(3) VA will review the request for revocation and determine whether there is a possibility for remediation. This review will take no longer than 30 days. During such review, the eligible veteran

or surrogate may rescind the request for revocation. If VA suspects that the safety of the eligible veteran is at risk, then VA may suspend the caregiver's responsibilities, and remove the eligible veteran from the home if requested by the eligible veteran, or take other appropriate action to ensure the welfare of the eligible veteran, prior to making a formal revocation.

(4) Caregiver benefits will continue for 30 days after the date of revocation, and VA will, if requested by the Family Caregiver, assist the individual with transitioning to alternative health care coverage and mental health services, unless one of the following is true:

(i) VA determines that the Family Caregiver committed fraud or abused or neglected the eligible veteran, in which case benefits will terminate immediately.

(ii) If the revoked individual was the Primary Family Caregiver, and another Primary Family Caregiver is designated within 30 days after the date of revocation, in which case benefits for the revoked Primary Family Caregiver will terminate the day before the date the new Primary Family Caregiver is designated.

(iii) If another individual is designated to be a Family Caregiver within 30 days after the date of revocation, such that there are three Family Caregivers assigned to the eligible veteran, in which case benefits for the revoked Family Caregiver will terminate the day before the date the new Family Caregiver is designated.

(iv) The revoked individual had been living with the eligible veteran and moves out, or the revoked individual abandons or terminates his or her relationship with the eligible veteran, in which case benefits will terminate immediately.

(c) *Revocation by VA.* VA may immediately revoke the designation of a Family Caregiver if the eligible veteran or individual designated as a Family Caregiver no longer meets the requirements of this part, or if VA makes the clinical determination that having the Family Caregiver is no longer in the best interest of the eligible veteran. VA will, if requested by the Family Caregiver, assist him or her in transitioning to alternative health care coverage and mental health services. If revocation is due to improvement in the eligible veteran's condition, death, or permanent institutionalization, the Family Caregiver will continue to receive caregiver benefits for 90 days, unless any of the conditions described in paragraphs (b)(4)(i) through (iv) of this section apply, in which case benefits will terminate as specified. In addition, bereavement counseling may be available under 38 U.S.C. 1783. If VA suspects that the safety of the eligible veteran is at risk, then VA may suspend the caregiver's responsibilities, and remove the eligible veteran from the home if requested by the eligible veteran or take other appropriate action to ensure the welfare of the eligible veteran, prior to making a formal revocation.

[FR Doc. 2015–00071 Filed 1–8–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–XD287

Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Bering Sea and Aleutian Islands Management Area; Habitat Areas of Particular Concern

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

ACTION: Notice of Agency decision.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the approval of Amendment 104 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). Amendment 104 to the FMP designates six areas of skate egg concentration as Habitat Areas of Particular Concern (HAPC). The HAPC designations for the six areas of skate egg concentration in the Bering Sea and Aleutian Islands Management Area (BSAI) are intended to highlight the importance of this essential fish habitat for conservation. This action promotes the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: The amendment was approved on January 5, 2015.

ADDRESSES: Electronic copies of Amendment 104 to the FMP and the Environmental Assessment (EA) prepared for this action are available from the Alaska Region NMFS Web site at *http://www.alaskafisheries.noaa.gov/analyses/default.htm.*

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–271–5195.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit proposed amendments to a fishery management plan to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that, upon receiving a fishery management plan amendment, NMFS immediately publish in the **Federal Register** a notice that the amendment is available for public review and comment.

The Notice of Availability for Amendment 104 was published in the **Federal Register** on October 8, 2014 (79 FR 60802), with a 60-day comment period that ended on December 8, 2014. NMFS received three comment letters that contained five substantive comments during the public comment period on the Notice of Availability for Amendment 104. No changes were made in response to these comments. NMFS summarized and responded to these comments under Comment and Responses, below.

NMFS determined that Amendment 104 to the FMP is consistent with the Magnuson-Stevens Act and other applicable laws, and the Secretary approved Amendment 104 on January 5, 2015. The October 8, 2014, Notice of Availability contains additional information on this action. No changes to Federal regulations are necessary to implement Amendment 104.

HAPC are geographic sites that fall within the distribution of essential fish habitat (EFH) for federally-managed species. HAPC are areas of special importance that may require additional protection from the adverse effects of fishing. EFH provisions provide a means for the Council to identify HAPC (50 CFR 600.815(a)(8)) in fishery management plans based on the rarity of the habitat type and at least one or more of the following considerations: the importance of the ecological function provided by the habitat; the extent to which the habitat is sensitive to human-induced environmental disturbance or degradation; and whether, and to what extent, development activities are, or will be, stressing the habitat type. The designation of HAPC does not require the implementation of regulations to limit fishing within HAPC unless such measures are determined to be necessary. EFH provisions require that a Council and NMFS act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature (50 CFR

600.815(a)(2)(ii)). Because HAPC is a type of EFH, these regulatory provisions also apply to HAPC.

Amendment 104 to the FMP was unanimously adopted by the Council in February 2013. Amendment 104 designates as HAPC six areas in the eastern Bering Sea where relatively high concentrations of skate eggs occur for several skate species (family *Rajidae*). Amendment 104 amends (1) Section 4.2.3.2 of the FMP to add six areas of skate egg concentration as HAPC, and (2) Appendix B of the FMP to include coordinates and maps that designate these HAPC. Amendment 104 adds Section 3.5.2.4.2 to the FMP to note that fishing activities are not restricted within these HAPC.

The Council and NMFS determined that these six areas met the definition of HAPC because they are rare and provide an important ecological function. These areas encompass approximately 82 square nautical miles of habitat, or less than 0.1 percent of the total area of the BSAI. These areas are discrete sites near the shelf/slope break with unique abiotic features (*e.g.,* substrate composition) that serve as important spawning and embryonic development areas for skate species. At each of these six areas, scientists repeatedly observed a relatively high occurrence of skate egg cases during stock assessment surveys and from fishery observer samples collected from vessels deploying fishing gear that contacted the sea floor (*e.g.,* non-pelagic trawl gear). The best available scientific information does not indicate that human-induced degradation (*e.g.,* adverse effects from fishing or non-fishing) is occurring. Because human-induced degradation from fishing or other activities is not observed currently, the Council did not consider this HAPC designation criterion as having been met.

The Council recommended Amendment 104 to the FMP to designate the six areas of skate egg concentrations that meet the Council's HAPC criteria. The Council also determined that designating these areas as HAPC would provide additional focus for the review of and consultation on proposed and existing activities (*e.g.,* drilling, laying cables, seismic exploration, fishing) within these HAPC.

An EA was prepared for Amendment 104 that describes the six areas of skate egg concentration, the fishery management background, the purpose and need for the action, the management alternatives evaluated to address this action, and the environmental, social, and economic impacts of the alternatives (see **ADDRESSES**).

Comments and Responses

During the public comment period for the Notice of Availability for Amendment 104, NMFS received three comment letters from three unique members of the public that contained five substantive comments. No changes to the amendment text were needed in response to the public comments. NMFS' responses to these comments are presented below.

Comment 1: One commenter expressed support for this action.

Response: NMFS acknowledges this comment.

Comment 2: One commenter expressed a general discontent with fisheries management.

Response: NMFS acknowledges this comment and notes that it is outside of the scope of Amendment 104.

Comment 3: Fishing should be banned in the six HAPC because NMFS is unable to prevent fishermen from exceeding allocations or illegally participating in the groundfish fisheries.

Response: NMFS disagrees. Before adopting Amendment 104, the Council considered an alternative (Alternative 3) that would have limited fishing within the proposed HAPC. The Council did not recommend regulations to limit fishing as part of this action because there is no evidence of adverse effects from fishing on skate populations within these HAPC that would need to be addressed through regulation. For example, the types of fishing gear used in the six HAPC have a minimal and temporary impact on skate habitat, and fishing effort is limited or does not occur in four of the six HAPC. Therefore, continued commercial fishing at the current rate and intensity is not likely to alter the capacity of EFH within these HAPC to support healthy populations of skates over the long term, as noted in Section 3.5.2 of the EA prepared for this action (See **ADDRESSES**). No new information exists that indicates that fishing activities are adversely affecting skate egg deposition and embryonic development within these HAPC.

NMFS will continue monitoring fishing activities within these six HAPC. NMFS monitors these HAPC by analyzing data collected through existing data sources such as stock assessment surveys and fishery observers. This monitoring will inform the Council and NMFS when there are major changes in fishing effort or other potential impacts to skate habitat within these HAPC. If through monitoring, NMFS and the Council learn that skate recruitment or overall biomass of a skate species has changed due to fishing impacts within these HAPC, the Council could recommend and NMFS could implement action to restrict fishing activities within these HAPC to protect the skate stocks dependent on the six HAPC established by this action.

Comment 4: Skates are important to the marine ecosystem. The six HAPC must be monitored for non-fishing impacts like abiotic changes in the environment.

Response: NMFS agrees. As noted in the response to comment 3, NMFS will continue to monitor the utility of these sites for skate spawning and embryonic development. This includes further study of the relationship between the biotic and abiotic habitat features of the sites and site selection for skate egg deposition. Incorporating the research and monitoring of skate species into the Council's annual research priority list will provide additional research focus on these HAPC. This research is intended to improve the understanding of skate populations, the importance of areas of skate egg concentration, and skate ecology and habitat.

Comment 5: The commonly accepted scientific term used for the HAPC areas designated under Amendment 104 is ''skate nurseries.'' We recommend that NMFS clarify that the ''areas of skate egg concentrations'' designated as HAPC are equivalent to ''skate nursery'' sites.

Response: NMFS agrees and notes that Section 2.4.4 of the EA prepared for this action (See **ADDRESSES**) acknowledges that the term ''areas of skate egg concentrations'' is synonymous with the term ''skate nurseries''.

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

Dated: January 5, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–00170 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 6
Friday, January 9, 2015

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

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 523 and 544

[BOP–1164–P]

RIN 1120–AB64

Good Conduct Time: Alternative Adult Literacy Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) proposes to amend its rules on Good Conduct Time (GCT) and Literacy. The purpose of this proposed rule is to provide effective literacy programming alternatives to the General Educational Development (GED) program that more effectively meet the specialized needs of inmates. This will also have the added benefit of reducing lengthy waiting lists for the GED program. This proposed rule will exempt inmates from the ''satisfactory progress'' provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA) if they participate in an ''authorized alternative adult literacy program.'' The Bureau's Literacy Program rules, which currently contemplate only GED attainment, would also be revised to allow for ''authorized alternative adult literacy programs.'' This change means that inmates participating in ''authorized alternative adult literacy programs'' will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT. Other than the change regarding inmates in ''authorized alternative adult literacy programs,'' we propose no further substantive changes.

DATES: Written comments must be submitted on or before March 10, 2015.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted *www.regulations.gov.*

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

The Proposed Rule

In this document, the Bureau of Prisons (Bureau) proposes to amend its rules on Good Conduct Time (GCT) and Literacy. The purpose of this proposed rule is to provide effective literacy programming alternatives to the General Educational Development (GED) program that more effectively meet the specialized needs of inmates. This will also have the added benefit of reducing lengthy waiting lists for the GED program.

Title 18 U.S.C. 3624(b)(1) provides that in awarding good conduct credit, the Bureau must consider whether the inmate has earned or is making satisfactory progress towards earning a high school diploma or equivalent degree. The Director is given authority to make exemptions to the GED requirements as he deems appropriate by 18 U.S.C. 3624(b)(4).

Through the Bureau's Literacy Program, inmates are prepared to compete for available jobs and cope with post-release community, family, and other responsibilities. In this proposed rule, the Director invokes his authority in 18 U.S.C. 3624(b)(4) to make an exemption to the GED requirements in order to provide an alternative for inmates whose needs are not met by the GED program while also providing relief to the growing demand for Literacy Programs.

By amending 28 CFR 523.20 and 544.71, inmates participating in ''authorized alternative adult literacy programs'' will receive the full benefit of GCT provisions while also obtaining the maximum possible benefit from a literacy program that best meets their unique needs.

Title 18 U.S.C. 3624(b)(1) requires the Bureau to consider whether an inmate has earned or is making satisfactory progress toward earning a high school diploma or an equivalent degree in order to award good conduct credit to that inmate. If inmates are not making satisfactory progress toward earning a high school diploma or equivalent degree, they may suffer negative consequences to their GCT credit. Although we made extensive efforts to enroll as many inmates in the Bureau's Literacy Programs (described in 28 CFR part 544) as possible, the number of inmates waiting to enroll in adult literacy programs as of October 2010, was 17,609 or approximately 11% of the Bureau's inmate population.

Further, it became apparent that the Bureau's Literacy Program was not meeting the specific needs of certain groups of inmates. For instance, according to officials from the Mexican

Ministry of Education, GED certificates are not accepted by Mexican employers and government. The Mexican Secundaria Program (the compulsory education for Mexican nationals) is a better alternative reentry program for inmates who will be released to Mexico than the U.S. based GED program. Therefore, for deportable aliens (Mexican nationals and other nationalities) whose primary language is Spanish and whose release country accepts the Mexican Secundaria certificates, the Mexican Secundaria Program is the better, more practical option.

For this reason, the Bureau offers the Mexican Secundaria program to inmates as described above. The Bureau does not intend the Mexican Secundaria Program to be a literacy option for U.S. citizen inmates. U.S. citizen inmates are required to take the GED program to enhance their opportunities for successful post-release employment because GED certificates are the basic academic requirement for most entry-level jobs in the United States.

Another group of inmates whose needs may not be met by the GED program are those inmates who face cognitive challenges. Such inmates have unique intellectual and employment needs and may have already reached their optimum level of academic achievement. Under current regulations, inmates whose cognitive abilities have precluded them from being able to complete the GED have tended to drop out of the GED program or otherwise receive an exemption for not showing gain in academic achievement scores, often after a prolonged period of enrollment. These inmates would be better served by giving them the option of participating in ''authorized alternative adult literacy programs'' which would teach them to function successfully (in society and while incarcerated) by assisting them in the development of the life skills needed to manage their lives on a daily basis in a respective residential or community setting.

Groups of inmates like the two described above have needs that are not addressed by the GED program. Inmates in both groups who participate in Bureau ''authorized alternative adult literacy programs'' would effectively receive the benefit of the program to the extent that their unique circumstances permit, but despite this accomplishment, they would not, under the current regulatory structure, receive the full amount of GCT that their peers who are able to participate in the GED program could receive.

This proposed rule will allow the Director to exercise his authority under 18 U.S.C. 3624(b)(4) to exempt inmates from the ''satisfactory progress'' provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA) if they participate in an ''authorized alternative adult literacy program.'' The Bureau's Literacy Program rules, which currently contemplate only GED attainment, are also being revised to allow for ''authorized alternative adult literacy programs.'' This change means that inmates eligible for ''authorized alternative adult literacy programs'' will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT.

Executive Order 12866

The Director certifies that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Parts 523 and 544

Prisoners.

Charles E. Samuels, Jr.,
Director, Bureau of Prisons.

Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we propose to revise 28 CFR parts 523 and 544 as follows.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 523—COMPUTATION OF SENTENCE

■ 1. The authority citation for 28 CFR part 523 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3568 (repealed November 1, 1987 as to offenses committed on or after that date), 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (repealed October 12, 1984 as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Amend § 523.20 by revising paragraph (d) to read as follows:

§ 523.20 Good Conduct Time.

* * * * *

(d) Notwithstanding the requirements of paragraphs (b) and (c) of this section;

(1) An inmate participating in an authorized alternative adult literacy program is eligible for a yearly award of good conduct time; and

(2) An alien subject to a final order of removal, deportation, or exclusion, is eligible, but is not required, to participate in a literacy program, or to be making satisfactory progress toward earning a General Educational Development (GED) credential, to be eligible for a yearly award of good conduct time.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

SUBPART H—LITERACY PROGRAM

■ 3. The authority citation for 28 CFR part 544 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

■ 4. Amend § 544.71 by revising paragraph (a) introductory text and paragraph (a)(4) and adding paragraph (a)(5) to read as follows:

§ 544.71 Exceptions to required literacy program participation.

(a) The following inmates are not required to attend the literacy program under § 544.70:

* * * * *

(4) Inmates determined by staff to be temporarily unable to participate in the literacy program due to special circumstances beyond their control (*e.g.,* due to a medical condition, transfer on writ, on a waiting list for initial placement). Such inmates, however, shall be required to participate when the special circumstances are no longer applicable; and

(5) Inmates who participate in authorized alternative adult literacy programs (programs other than the GED program) due to special circumstances, such as release destination or learning ability.

[FR Doc. 2015–00144 Filed 1–8–15; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0002]

RIN 1625–AA11

Regulated Navigation Area, Kill Van Kull and Newark Bay; Bayonne, NJ, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Coast Guard proposes to establish a permanent Regulated Navigation Area (RNA) on the navigable waters of Kill Van Kull and Newark Bay surrounding the Bayonne Bridge. In response to a planned Bayonne Bridge construction project, this proposed rule would establish a speed restriction in the waters surrounding the Bayonne Bridge. Also, this proposed rule would allow the Coast Guard to prohibit vessel traffic through the RNA when necessary to safeguard people and vessels from the hazards associated with bridge construction.

DATES: Comments and related material must be received by the Coast Guard on or before February 9, 2015.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Myles Greenway, Waterways Management at First Coast Guard District at 617–223–8385 or email at *Myles.J.Greenway@uscg.mil;* or call LT Hannah Eko, Waterways Management Division at Sector New York at 718–354–4114, or email *hannah.o.eko@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP NY Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
RNA Regulated Navigation Area

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0002] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0002) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The Port Authority of New York and New Jersey (PANYNJ) have received approval to perform construction on the Bayonne Bridge, and the Coast Guard has published certain documents in the **Federal Register** related to the bridge construction permit. However, this proposed rulemaking is the first regulatory action that the Coast Guard has taken related to regulating vessel traffic along the affected waterway.

There is insufficient time before the planned start of the construction project to accommodate the notice and comment process and have a thirty day period before the effective date of the regulation. The currently planned start of the construction and the associated regulated navigation area is February 1, 2015. This date is based on a number of factors, including weather and the availability of construction equipment and other resources, and would be difficult to change. However, the Coast Guard is taking several steps to mitigate the impact of this shortened period. First, the Coast Guard has reached out to waterway users to discuss the impact of this regulated navigation area. In addition, the Coast Guard has drafted a rule designed to have minimum impact on waterway traffic. Finally, if the planned construction date remains February 1, 2015, the Coast Guard intends to continue to receive comments in the first few months of the effective period of the regulated navigation area, and may change the regulation as a result of those comments. A good cause statement, if required, will be published as part of the final rule.

C. Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish Regulated Navigation Areas in defined water areas that are hazardous or in which hazardous conditions are determined to exist. See 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

The purpose of this proposed rulemaking is to ensure the safety of vessels and workers from hazards associated with construction on the Bayonne Bridge. The current Bayonne Bridge was built in 1931 and carries the NY/NJ Route 440. PANYNJ has contracted Skanska-Koch Inc. and Kiewit Infrastructure for this project.

Construction operations are sensitive to water movement, and wake from passing vessels could pose significant risk of injury or death to construction workers. In order to minimize such unexpected or uncontrolled movement of water, the RNA will limit vessel speed and wake of all vessels operating in the vicinity of the bridge construction zone. This will be achieved by implementing a five (5) knot speed limit and ''NO WAKE'' zone in the vicinity of the construction as well as providing a means to suspend all vessel traffic for emergent situations that pose imminent threat to waterway users in the area.

After consulting with PANYNJ, Skanska-Koch Inc, and Kiewit Infrastructure, the Coast Guard has determined that certain aspects of the construction project can only be completed in the channel and will require closing the waterway. For instance, barges are expected to be used at times while portions of the bridge are being raised and the barges' presence might limit maneuverability in the waterway. Also, the Coast Guard anticipates that crane and cutting operations may create the potential for falling debris into the waterway. It is expected that the construction efforts that might require waterway closures will not take place until the fall of 2015.

D. Discussion of Proposed Rule

To address the aforementioned hazards, this proposed rule would establish speed and wake restrictions in the vicinity of the Bayonne Bridge. Also, this proposed rule would establish intermittent closures of the waterway along portions of Kill Van Kull and Newark Bay when necessary for the safety of vessels and workers during construction work in the channel. This proposed regulation will be effective at 8:00 a.m. on February 1, 2015. The proposed speed restrictions of five (5) knots will be in effect at all times within the RNA and all vessels must proceed through the area with caution and operate in such a manner as to produce no wake unless a higher minimum speed is necessary to maintain bare steerage. The Coast Guard will enforce waterway closures, however, only when necessary to protect people and vessels from hazards associated with bridge construction.

Whenever it is determined that a waterway closure is necessary, the Coast Guard will provide the public with as much advanced notice as possible of the closure times. Such notice will be provided via *http://homeport.uscg.mil/newyorkvia,* via Local Notice to Mariners, via Broadcast Notice to Mariners, and via other methods described in 33 CFR 165.7.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to the rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard expects the economic impact of this proposed rule to be minimal as this proposed RNA will not necessarily prohibit vessel traffic in the affected waterways. Rather, this proposed RNA will primarily establish a speed and wake restriction along the waters surrounding the Bayonne Bridge. There may be times that the Coast Guard will prohibit vessel traffic through the RNA, but such closures are expected to take place during off peak hours. Moreover, even when the Coast Guard generally prohibits vessel traffic through the RNA, specific vessels may still obtain permission to transit through the RNA. Additionally, the Coast Guard will provide the public with advanced notification of waterway closures so that mariners may plan accordingly. Such notifications will be made through various means, including, but not limited to, Local Notice to Mariners and at *http://homeport.uscg.mil/newyork.* For all of these reasons, the Coast Guard has determined that this proposed

rulemaking would not be a significant regulatory action.

2. Impact on Small Entities

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

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. 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.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a Regulated Navigation Area and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.168 to read as follows:

§ 165.168 Regulated Navigation Area; Kill Van Kull and Newark Bay; Bayonne, NJ, NY Regulated Area.

(a) *Location.* The following area is a Regulated Navigation Area (RNA): all

waters of Bergen Point East and West Reaches in the Kill Van Kull, and all waters of Newark Bay South Reach, bound by the following approximate positions: 40°38′51.93″ N, 074°06′47.90″ W; thence to 40°38′41.53″ N, 074°07′18.54″ W; thence to 40°38′38.20″ N, 074°07′41.30″ W; thence to 40°38′40.47″ N, 074°08′01.61″ W; thence to 40°38′34.20″ N, 074°08′41.71″ W; thence to 40°38′39.67″ N, 074°08′51.86″ W; thence to 40°38′50.20″ N, 074°08′55.19″ W; thence to 40°39′17.54″ N, 074°08′38.20″ W; thence to 40°39′19.00″ N, 074°08′53.09″ W; thence to 40°39′07.94″ N, 074°08′59.04″ W; thence to 40°38′46.87″ N, 074°09′23.03″ W; thence to 40°38′33.40″ N, 074°09′19.87″ W; thence to 40°38′24.86″ N, 074°09′02.71″ W; thence to 40°38′23.93″ N, 074°08′52.56″ W; thence to 40°38′31.40″ N, 074°08′07.56″ W; thence to 40°38′31.80″ N, 074°07′55.66″ W; thence to 40°38′30.06″ N, 074°07′41.13″ W; thence to 40°38′33.80″ N, 074°07′14.86″ W; thence to 40°38′43.93″ N, 074°06′45.45″ W; thence to the point of origin (NAD 83).

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA.

(2) Any vessel transiting through the RNA must make a direct passage. No vessel may stop, moor, anchor or loiter within the RNA at any time unless they are working on the bridge construction. Movement within the RNA is subject to a ''Slow-No Wake'' speed limit. All vessels may not produce a wake and may not attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway.

(3) There may be times that the First District Commander or the Captain of the Port (COTP) New York finds it necessary to close the RNA to vessel traffic. All closures will be limited to specific hours of the day. Mariners will be advised of all closure dates and times via Local Notice to Mariners and Broadcast Notice to Mariners in advance of closure times. During such closures, persons and vessels may request permission to enter the RNA by contacting the COTP or the COTP's on-scene representative on VHF–16 or via phone at 718–354–4353 (Sector New York Command Center).

(4) Vessels in the RNA must comply with directions given to them by the COTP or the COTP's on-scene representative. The ''on-scene representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The on-scene representative may be on a Coast Guard vessel; or other designated craft; or on shore and communicating with a Vessel Traffic Service New York Watchstander or vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) All other relevant regulations, including but not limited to the Rules of the Road, as codified in 33 CFR Subchapter E, Inland Navigational Rules, remain in effect within the RNA and must be strictly followed at all times.

(c) *Enforcement period.* This regulation will be in place from 8:00 a.m. on February 1, 2015 until December 31, 2016. This RNA's speed restrictions are enforceable 24 hours a day as long as this RNA is in place. The Coast Guard will enforce waterway closures only when necessary to protect people and vessels from hazards associated with bridge construction.

(d) *Notification.* The Coast Guard will rely on the methods described in 33 CFR 165.7 to notify the public of the time and duration of any closure of the RNA. Violations of this RNA may be reported to the COTP at 718–354–4353 or on VHF-Channel 16.

Dated: December 22, 2015.

L.L. Fagan,

Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2015–00178 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register

Vol. 80, No. 6

Friday, January 9, 2015

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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Missouri Advisory Committee for a Meeting To Discuss Panel Participants and Location Sites of Public Meeting on Police-Community Relations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 that the Missouri Advisory Committee (Committee) will hold a meeting on Monday, January 12, 2014, at 12:00 p.m. for the purpose of discussing panel participants and location sites of public meeting on police-community relations. At its meeting in November, the Committee approved a proposal that included holding a public meeting in St. Louis to hear testimony from community members, police representatives, government officials, and other experts on police-community relations in Missouri. At its December meeting, the Committee discussed meeting logistics and potential panelists. At this meeting, the Committee will continue to discuss panelists for the February 23, 2015, meeting in St. Louis.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–428–9473, conference ID: 2721361. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by February 12, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome

12:00 p.m. to 12:05 p.m.
S. David Mitchell, Chairman, Missouri Advisory Committee

Discussion of Possible Presenters at Public Meeting

12:05 p.m. to 12:40 p.m.
Missouri Advisory Committee

Planning Next Steps

12:40 p.m. to 1:00 p.m.

Adjournment

1:00 p.m.

DATES: The meeting will be held on Monday, January 12, 2015, at 12:00 p.m. CST.

Public Call Information:
Dial: 888–428–9473.
Conference ID: 2721361.

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the Committee meeting for the fourth time this fiscal year and sixth time since the events of Ferguson, MO. Given the exceptional urgency of the events, the agency and advisory committee deem it important for the advisory committee to meet on the date given.

Dated January 5, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–00123 Filed 1–8–15; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oklahoma Advisory Committee for a Meeting To Discuss Memoranda on Possible Civil Rights Topics in Oklahoma To Consider as Project Topics

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 that the Oklahoma Advisory Committee (Committee) will hold a meeting on Friday, January 16, 2015, at 3:00 p.m. CST for the purpose of discussing whether the Committee should draft and potentially submit a project proposal on the school to prison pipeline in Oklahoma or the conditions of incarceration in Oklahoma.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–430–8709, conference ID: 1196853. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and

providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by February 16, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions

3:00 p.m. to 3:05 p.m.
Vicki Limas, Chair

Discussion of School to Prison Pipeline in Oklahoma

3:05 p.m. to 3:25 p.m.
Oklahoma Advisory Committee

Discussion of Conditions of Incarceration in Oklahoma Prisons

3:25 p.m. to 3:45 p.m.
Oklahoma Advisory Committee

Planning Next Steps

3:45 p.m. to 4:00 p.m.

Adjournment

4:00 p.m.

DATES: The meeting will be held on Friday, January 16, 2015, at 3:00 p.m.

Public Call Information:
Dial: 888–430–8709.
Conference ID: 1196853.

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of the Committee meeting twice within a calendar month and for the third time this fiscal year without coming to a decision on a next project. Given the need to finalize the decision and the exceptional circumstance surrounding this decision, the committee deems it necessary to hold the meeting.

Dated January 5, 2014.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–00124 Filed 1–8–15; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina (State) Advisory Committee (SAC) for a Meeting To Discuss Potential Project Topics

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 that the North Carolina Advisory Committee (Committee) will hold a meeting on Wednesday, January 28, 2015, for the purpose of introductions of a new committee and to discuss potential topics recently dispersed from the USCCR briefing.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–452–4023, conference ID: 7905065. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by February 23, 2015. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

DATES: The meeting will be held on Wednesday, January 28, 2015, at 1:00 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 888–452–4023, conference ID: 7905065.

Dated: January 5, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–00125 Filed 1–8–15; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kansas Advisory Committee for a Meeting To Discuss the Voter ID Law in Kansas and Seclusion and Restraint of Children With Disabilities in Kansas Schools

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 that the Kansas Advisory Committee (Committee) will hold a meeting on Wednesday, January 28, 2015, at 12:00 p.m. CST for the purpose of discussing a project proposal on voting rights issues in Kansas. The proposal will consider in particular the voter identification requirements in Kansas.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–430–8691, conference ID: 7193727. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any

incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also entitled to submit written comments; the comments must be received in the regional office by February 28, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions

12:00 p.m. to 12:10 p.m.
Elizabeth Kronk Warner, Chair

Discussion of Proposal on Voting Rights in Kansas

12:10 p.m. to 12:50 p.m.

Planning Next Steps

12:50 p.m. to 1:00 p.m.

Adjournment

1:00 p.m.

DATES: The meeting will be held on Wednesday, January 28, 2015, at 12:00 p.m.

Public Call Information:
Dial: 888–430–8691.
Conference ID: 7193727.

Dated January 5, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–00122 Filed 1–8–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–63–2014]

Foreign-Trade Zone 44—Morris County, New Jersey; Authorization of Production Activity; Panasonic System Communications Company of North America (Laptop Computers); Rockaway, New Jersey

On September 8, 2014, the New Jersey Department of State, grantee of FTZ 44, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Panasonic System Communications Company of North America, within Subzone 44G, in Rockaway, New Jersey.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 56058, 9–18–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: January 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–00177 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''PRC''). The period of review (''POR'') is December 1, 2012, through November 30, 2013. We have preliminarily found that respondent Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. (''Jiangsu Senmao'') made sales of subject merchandise at less than normal value (''NV''). We have preliminarily found that respondent Dalian Dajen Wood Co., Ltd. (''Dalian Dajen'') has not made sales of subject merchandise at less than NV.

DATES: *Effective* January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–0650.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes MLWF, subject to certain exceptions.[1] Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (''HTSUS''): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100;

[1] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement & Compliance, regarding ''Decision Memorandum for Preliminary Results of 2012–2013 Antidumping Duty Administrative Review: Multilayered Wood Flooring from the People's Republic of China,'' (''Preliminary Decision Memorandum'') issued and dated concurrently with this notice for a complete description of the Scope of the Order.

4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). Export prices and constructed export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, please see the Preliminary Decision Memorandum, hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[2] ACCESS is available to registered users at *http://access.trade.gov.* The Preliminary Decision Memorandum is also available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Affiliation

Based on the evidence presented in Dalian Dajen's questionnaire responses, we preliminarily find that Dalian Dajen and HK Artflor International Trading Co., Ltd., a Hong Kong trading company, are affiliated under sections 771(33)(A) and (G) of the Act. We also preliminarily find that Dalian Dajen and Johnson Premium Hardwood Flooring Inc., a U.S. reseller of subject merchandise, are affiliated under section 771(33)(F) of the Act, and that Dalian Dajen and Zhejiang Shiyou Timber Co., Ltd., a separate-rate respondent in this review, are not affiliated under section 771(33) of the Act.[3]

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR from December 1, 2012, through November 30, 2013:[4]

Exporter	Weighted-average dumping margin (percent)
Dalian Dajen Wood Co., Ltd.	0.00
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.	18.27
A&W (Shanghai) Woods Co., Ltd.	18.27
Armstrong Wood Products (Kunshan) Ltd.	18.27
Baishan Huafeng Wood Product Co., Ltd.	18.27
Changbai Mountain Development and Protection Zone Hongtu Wood Industry Co., Ltd.	18.27
Changzhou Hawd Flooring Co., Ltd.	18.27
Chinafloors Timber (China) Co., Ltd.	18.27
Dalian Huilong Wooden Products Co., Ltd.	18.27
Dalian Jiuyuan Wood Industry Co., Ltd.	18.27
Dalian Kemian Wood Industry Co., Ltd.	18.27
Dalian Penghong Floor Products Co., Ltd.	18.27
Dalian T-Boom Wood Products Co., Ltd.	18.27
Dasso Industrial Group Co., Ltd.[5]	18.27
Dongtai Fuan Universal Dynamics, LLC	18.27
Dunhua City Dexin Wood Industry Co., Ltd.	18.27
Dunhua City Hongyuan Wood Industry Co., Ltd.	18.27
Dun Hua City Jisen Wood Industry Co., Ltd.	18.27
Dunhua City Wanrong Wood Industry Co., Ltd.	18.27
Dun Hua Sen Tai Wood Co., Ltd.	18.27
Fine Furniture (Shanghai) Limited	18.27
Fusong Jinlong Wooden Group[6]	18.27
GTP International Ltd.	18.27
Guangdong Yihua Timber Industry Co., Ltd.	18.27
Guangzhou Panyu Kangda Board Co., Ltd.	18.27
Guangzhou Panyu Southern Star Co., Ltd.	18.27
HaiLin LinJing Wooden Products, Ltd	18.27
Hangzhou Hanje Tec Co., Ltd.	18.27
Hangzhou Zhengtian Industrial Co., Ltd.	18.27
Hunchun Forest Wolf Wooden Industry Co., Ltd.	18.27
Huzhou Chenghang Wood Co., Ltd.	18.27
Huzhou Fulinmen Imp. & Exp. Co., Ltd.	18.27
Huzhou Jesonwood Co., Ltd.	18.27
Huzhou Sunergy World Trade Co., Ltd.	18.27
Jianfeng Wood (Suzhou) Co., Ltd.	18.27
Jiangsu Guyu International Trading Co., Ltd.	18.27
Jiangsu Kentier Wood Co., Ltd.	18.27
Jiangsu Mingle Flooring Co., Ltd.	18.27
Jiangsu Simba Flooring Co., Ltd.	18.27
Jiashan HuiJiaLe Decoration Material Co., Ltd.	18.27
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.	18.27
Jilin Xinyuan Wooden Industry Co., Ltd.	18.27
Karly Wood Product Limited	18.27
Kemian Wood Industry (Kunshan) Co., Ltd.	18.27
Linyi Youyou Wood Co., Ltd.[7]	18.27
Metropolitan Hardwood Floors, Inc.	18.27
Mudanjiang Bosen Wood Industry Co., Ltd.	18.27

[2] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[3] *See* Memorandum to Abdelali Elouaradia re: ''Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: Dalian Dajen Wood Co., Ltd.: Affiliation and Single Entity Status'' (December 31, 2014).

[4] In addition to the companies listed in the table, the following companies submitted information on the record demonstrating that they did not ship subject merchandise to the United States during the POR. The Department confirmed their certification of no shipment with U.S. Customs and Border Protection (''CBP''); therefore, the following companies will maintain their rate from the most recent segment in which they participated: Anhui Longhua Bamboo Product Co., Ltd.; Benxi Wood Company; Guangzhou Homebon Timber Manufacturing Co., Ltd., Jiaxing Brilliant Import & Export Co. Ltd..; Pinge Timber Manufacturing (Zhejiang) Co., Ltd.; Power Dekor Group Co., Ltd; Shenyang Senwang Wooden Industry Co., Ltd. Additionally, Dalian Huade Wood Product Co., Ltd. and Zhejiang Fuerjia Wooden Co., Ltd. did not have any qualifying shipments for the Department to review, due to their certification that their only POR shipments underwent review during their respective new shipper reviews. Both companies therefore maintain the dumping margin that was assessed as a result of their respective new shipper reviews.

Exporter	Weighted-average dumping margin (percent)
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.	18.27
Nanjing Minglin Wooden Products Co., Ltd.	18.27
Puli Trading Limited	18.27
Samling Group [8]	18.27
Shanghai Eswell Timber Co., Ltd.	18.27
Shanghai Lairunde Wood Co., Ltd.	18.27
Shanghai New Sihe Wood Co., Ltd.	18.27
Shanghai Shenlin Corp.	18.27
Shenyang Haobainian Wooden Co., Ltd.	18.27
Shenzhenshi Huanwei Woods Co., Ltd	18.27
Suzhou Dongda Wood Co., Ltd.	18.27
Tongxiang Jisheng Import and Export Co., Ltd.	18.27
Xiamen Yung De Ornament Co., Ltd.	18.27
Xuzhou Shenghe Wood Co., Ltd.	18.27
Yingyi-Nature (Kunshan) Wood Industry Co., Ltd.	18.27
Yixing Lion-King Timber Industry Co., Ltd.	18.27
Zhejiang Biyork Wood Co., Ltd.	18.27
Zhejiang Dadongwu Greenhome Wood Co., Ltd.	18.27
Zhejiang Fudeli Timber Industry Co., Ltd.	18.27
Zhejiang Fuma Warm Technology Co., Ltd.	18.27
Zhejiang Longsen Lumbering Co., Ltd.	18.27
Zhejiang Shiyou Timber Co., Ltd.	18.27
Zhejiang Tianzhen Bamboo & Wood Development Co., Ltd.	18.27
PRC-Wide Entity [9]	58.84

[5] The initiation notice (*Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 6147 (February 3, 2014)) included Hangzhou Dazhuang Floor Co. (dba Dasso Industrial Group Co., Ltd.); however, Dasso Industrial Group Co., Ltd. (''Dasso'') certified in its March 21, 2014 separate-rate certification that it no longer uses the name Hangzhou Dazhuang Floor Co., Ltd., and did not use that name during the POR. Therefore, the separate-rate status applies only to Dasso.

[6] The following companies are collectively known as The Fusong Jinlong Group (''Fusong Jinlong Group''): Dalian Qianqiu Wooden Product Co., Ltd.; Fusong Jinlong Wooden Group Co., Ltd.; Fusong Jinqiu Wooden Product Co., Ltd.; and Fusong Qianqiu Wooden Product Co., Ltd.

[7] The Department determined that Linyi Youyou Wood Co., Ltd. is the successor-in-interest to Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Industry Limited Company of Shanghai. *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review,* 79 FR 58740 (September 30, 2014).

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice.[10] Interested parties may submit a case brief no later than 30 days after the date of publication of these preliminary results of review.[11] Rebuttal briefs may be filed no later than five days after the deadline for filing case briefs and may respond only to arguments raised in the case briefs.[12] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[13] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time to be determined.[14] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[15]

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

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[16] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). In these preliminary results, the Department applied the assessment rate calculation method adopted in the *Final Modification for Reviews.*[17] Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review.

On October 24, 2011, the Department announced a refinement to its assessment practice in NME

[8] The following companies are collectively known as The Samling Group (''Samling Group''): Baroque Timber Industries (Zhongshan) Co., Ltd.; Riverside Plywood Corporation; Samling Elegant Living Trading (Labuan) Limited; Samling Global USA, Inc.; and Samling Riverside Co., Ltd.

[9] The following companies were named in the *Initiation Notice* but did not submit a certification of no shipment, separate rate application or separate rate certification; therefore they are part of the PRC-wide entity: Baiying Furniture Manufacturer Co., Ltd.; Dunhua Jisheng Wood Industry Co., Ltd.; Dunhua Shengda Wood Industry Co., Ltd.; Fu Lik Timber (HK) Co., Ltd.; Guangdong Fu Lin Timber Technology Limited, Guanghzhou Panyu Shatou Trading Co., Ltd.; Hunchun Xingjia Wooden Flooring Inc.; Huzhou Fuma Wood Bus. Co., Ltd.; Huzhou Ruifeng Imp. & Exp. Co., Ltd.; Jiazing Brilliant Import & Export Co., Ltd. Linyi Bonn Flooring Manufacturing Co., Ltd.; Sennorwell International Group (Hong Kong) Limited; Shenyang Sende Wood Co., Ltd.; Suzhou Anxin Weiguang Timber Co., Ltd.; Vicwood Industry (Suzhou) Co., Ltd.; Yekalon Industry, Inc.; Zhejiang AnJi XinFeng Bamboo & Wood Co., Ltd.; Zhejiang Desheng Wood Industry Co., Ltd.; Zhejiang Haoyun Wood Co., Ltd.; and Zhejiang Jeson Wood Co., Ltd.

[10] *See* 19 CFR 351.224(b).

[11] *See* 19 CFR 351.309(c)(ii).

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

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

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

[15] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[16] *See* 19 CFR 351.212(b)(1).

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

antidumping duty cases.[18] Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above the cash deposit rate will be their respective rate established in the final results of this review, except if the rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), then no cash deposit will be required; (2) for previously investigated PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: December 31, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Period of Review
3. Extension of Preliminary Results
4. Scope of the Order
5. Selection of Respondents
6. Non-Market Economy Country
7. Separate Rate
8. Rate for Non-Examined, Separate Rate Respondents
9. The PRC-wide Entity
10. Surrogate Country and Surrogate Value Data
11. Date of Sale
12. Fair Value Comparisons
13. Affiliation and Single Entity Status
14. U.S. Price
15. Value Added Tax
16. Factor Valuations
17. Adjustment Under Section 777(A)(f) of the Act
18. Currency Conversion

[FR Doc. 2015–00197 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–DS–P

[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review; 2012–2013

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

SUMMARY: The Department of Commerce (''the Department'') is conducting a new shipper review of the antidumping duty order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''PRC''). The review covers one exporter of subject merchandise, Linyi Anying Wood Co., Ltd., (''Anying''). We preliminarily find that Anying has not made sales of subject merchandise at less than normal value. The period of review (''POR'') for Anying is December 1, 2012, through November 30, 2013.[1]

DATES: *Effective Date:* January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Robert Bolling, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5831 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes MLWF, subject to certain exceptions.[2] The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030;

[1] *See Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 79 FR 5374 (January 31, 2014) (''*Initiation Notice*'').

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance''Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review, 2012–2013: Multilayered Wood Flooring from the People's Republic of China,'' dated December 31, 2014 (''Preliminary Decision Memorandum'') for a full description of the Scope of the Order.

4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Extension of Deadlines for Preliminary Results

On June 27, 2014, the Department extended the time period for issuing the preliminary results of this review by 120 days, until November 20, 2014.[3] On November 12, 2014, the Department aligned this new shipper review with the second administrative review of MLWF from the PRC.[4] On November 20, 2014, the Department extended the preliminary results until December 31, 2014, to align with the second administrative review of this proceeding.[5]

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.214. The Department calculated export prices in accordance with section 772 of the Act. Because the PRC is a nonmarket economy country (''NME'') within the meaning of section 771(18) of the Act, the Department calculated normal value in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[6] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of New Shipper Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the POR from December 1, 2012 through November 30, 2013:

Exporter	Producer	Weighted-average dumping margin (percent)
Linyi Anying Wood Co., Ltd	Linyi Anying Wood Co., Ltd	0.00

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[7] Rebuttals to case briefs may be filed no later than five days after the time limit for filing case briefs.[8] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Any interested party may request a hearing within 30 days of publication of this notice.[9] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[10]

The Department intends to issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon issuing the final results of this new shipper review, the Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this new shipper review. If the individually examined respondent's weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[11]

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding ''Multilayered Wood Flooring from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review'' (June 27, 2014).

[4] *See* Memorandum to the File, regarding ''Alignment of the New Shipper Review of Multilayered Wood Flooring from the People's Republic of China with the Second Administrative Review of Multilayered Wood Flooring from the People's Republic of China,'' dated November 12, 2014.

[5] *See* Memorandum to the File, regarding ''Extension of Deadline for the Preliminary Results of the New Shipper Review of Multilayered Wood Flooring from the People's Republic of China,'' dated November 20, 2014.

[6] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[7] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

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

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

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

[11] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this new shipper review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by Anying for this new shipper review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that the exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[12]

The final results of this new shipper review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of this new shipper review (except, if the rate is zero or *de minimis,* then a zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing producer/exporter-specific combination rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity, or 58.84 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC producer/exporter combination that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214.

Dated: December 30, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I–List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
5. Bona Fide Sale Analysis
6. Non-Market Economy Country Status
7. Separate Rates
8. Absence of De Jure Control
9. Absence of De Facto Control
10. Surrogate Country
11. Economic Comparability
12. Significant Producer of Comparable Merchandise
13. Data Availability
14. Date of Sale
15. Fair Value Comparisons
16. Differential Pricing Analysis
17. Results of the Differential Pricing Analysis
18. U.S. Price
19. Value Added Tax
20. Normal Value
21. Factor Valuations
22. Currency Conversion
23. Section 777A(f) of the Act

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[12] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–919, A–602–806]

Electrolytic Manganese Dioxide From the People's Republic of China and Australia: Continuation of the Antidumping Duty Order on the People's Republic of China, Revocation of the Antidumping Duty Order on Australia

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

SUMMARY: As a result of the determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (the ''ITC'') in their five year (sunset) reviews that revocation of the antidumping duty (''AD'') order on electrolytic manganese dioxide (''EMD'') from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the AD order on EMD from the PRC. In addition, as a result of the ITC's determination that revocation of the AD order on EMD from Australia is not likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States within a reasonably foreseeable time, the Department is revoking the AD order on EMD from Australia.

DATES: *Effective Date:* January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–5193.

SUPPLEMENTARY INFORMATION

Background

On October 7, 2008, the Department published the AD orders on EMD from the PRC and Australia.[1] On September 3, 2013, the Department published the notice of initiation of the first sunset review of the AD orders on EMD from the PRC and Australia, pursuant to section 751(c) of the Tariff Act of 1930,

[1] *See Antidumping Duty Order: Electrolytic Manganese Dioxide from Australia,* 73 FR 58538 (October 7, 2008) (''*Australia Order*''); *see also Antidumping Duty Order: Electrolytic Manganese Dioxide from the People's Republic of China,* 73 FR 58537 (October 7, 2008).

as amended (the ''Act'').[2] As a result of its reviews, the Department determined that revocation of the AD orders on EMD from the PRC and Australia would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the dumping margins likely to prevail should the order be revoked.[3] On December 24, 2014, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD order on EMD from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, but that revocation of the AD order on EMD from Australia would not be likely to do so.[4]

Scope of the Orders

The merchandise covered by these orders includes all manganese dioxide (MnO[2]) that has been manufactured in an electrolysis process, whether in powder, chip, or plate form. Excluded from the scope are natural manganese dioxide (NMD) and chemical manganese dioxide (CMD). The merchandise subject to these orders is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2820.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Continuation of the Order on EMD From the PRC

As a result of the determinations by the Department and the ITC that revocation of the AD order on EMD from the PRC would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on EMD from the PRC. U.S. Customs and Border Protection (''CBP'') will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Revocation of the Order on EMD From Australia

As a result of the determination by the ITC that revocation of the AD order on EMD from Australia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to section 751(d)(2) of the Act, the Department is revoking the AD order on EMD from Australia. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is October 7, 2013 (*i.e.,* the fifth anniversary of the date of publication of the order in the **Federal Register**).[5]

Cash Deposit and Assessment of Duties for EMD From Australia

The Department will notify CBP 15 days after publication of this notice, to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of EMD from Australia, entered or withdrawn from warehouse, on or after October 7, 2013. The Department will further instruct CBP to refund with interest all cash deposits on entries made on or after October 7, 2013. Entries of EMD from Australia prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements and assessments. The Department will complete any pending or requested administrative reviews of the order on EMD from Australia covering entries prior to October 7, 2013.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

These five-year (sunset) reviews and notice are published in accordance with sections 751(c) and (d)(2), and 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: December 31, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

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[2] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 54237 (September 3, 2013).

[3] *See Electrolytic Manganese Dioxide From Australia and the People's Republic of China: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders,* 79 FR 6162, 6163 (February 3, 2014).

[4] *See Electrolytic Manganese Dioxide From Australia and China,* 79 FR 77525 (December 24, 2014).

[5] *See Australia Order,* 73 FR at 58538; *see also* 19 CFR 351.222(i)(2)(i).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD702

Gulf of Mexico Fishery Management Council (Council); Public Meeting

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

ACTION: Notice of public meeting of the Gulf of Mexico Fishery Management Council.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings of the: Administrative Policy, Data Collection, Reef Fish, Mackerel and Gulf SEDAR Management Committees; in conjunction with a meeting of the Full Council. The Council will also hold a formal public comment session.

DATES: The Council meeting will convene 8:30 a.m. on Monday, January 26 and adjourn 4 p.m. on Thursday, January 29, 2015.

ADDRESSES:

Meeting address: The meeting will be held at the Grand Hotel Marriott, located at One Grand Boulevard, Point Clear, AL 36564; telephone: (251) 928–9201.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *doug.gregory@gulfcouncil.org*

SUPPLEMENTARY INFORMATION: The items of discussion for each individual management committee agenda are as follows:

Administrative Policy Committee Agenda, Monday, January 26, 2015, 8:30 a.m. until 10:30 a.m.:

- Update on Advisory Panel (AP) and Scientific and Statistical Committee (SSC) Appointment Process and Structure
- Review of NMFS/NOAA Comments on 2012 Standard Operating Policies and Procedures (SOPPs)

Data Collection Committee Agenda, Monday, January 26, 2015, 10:30 a.m. until 12 noon:

- Discussion of Technical Subcommittee for Electronic Charter Boat Reporting Recommendations
- Review and Discussion of Marine Recreational Information Program (MRIP) Calibration
- Review and Discussion of MRIP *Red Snapper* Workshop
- Electronic Monitoring/Electronic Reporting Implementation Plan

—Recess—

Reef Fish Management Committee Agenda, Monday, January 26, 2015, 1:30 p.m. until 5:30 p.m.:

- Review of *Red Snapper* Update Assessment
- Reevaluation of Gag Overfishing Limits (OFL) and Acceptable Biological Catch (ABC) for 2015–16
- Review of *Mutton Snapper* Update Assessment
- Review of Draft Amendment 39—*Red Snapper* Recreational Regional Management
- Review of Revised Public Hearing Draft Amendment 28—*Red Snapper* Allocation
- Review of *Greater Amberjack* Draft Framework Action
- Report of the Ad Hoc For-hire *Red Snapper* AP
- Final Action—Framework Action to Adjust Recreational For-Hire *Red Snapper* Management Measures
- Review of Options Paper to Update Minimum Stock Size Threshold for Reef Fish Stocks with Low Natural Mortality
- Discussion of *Red Snapper* Poaching by Mexican Lanchas

—Recess—

Reef Fish Management Committee Agenda, Tuesday, January 27, 2015, 8:30 a.m. until 5:30 p.m.:

- Continuation of the previous day's agenda

—Recess—

Immediately following committee recess Dr. Crabtree will hold a *Red Snapper* Update and Question & Answer Session.

Mackerel Management Committee Agenda, Wednesday, January 28, 2015, 8:30 a.m. until 11:30 a.m.:

- Discussion of Coastal Migratory Pelagics Amendment Renumbering
- Review of SEDAR 38—Gulf of Mexico and South Atlantic *King Mackerel* Stock Assessment Report
- Review of Coastal Migratory Pelagics Amendment 24 Scoping Document—South Atlantic *Spanish Mackerel* Allocations
- Review of Coastal Migratory Pelagics Amendment 26 Scoping Document—Gulf of Mexico and South Atlantic *King Mackerel* Allocations and Mixing Zone Delineation
- Review of Coastal Migratory Pelagics Amendment 28 Scoping Document—Gulf of Mexico and South Atlantic *King and Spanish Mackerel* Permit Split
- Discussion of Gulf of Mexico *King Mackerel* Gill Net Fishery Issues

Gulf SEDAR Management Committee Agenda, Wednesday, January 28, 2015, 11:30 a.m. until 12 noon:

- Review of SEDAR Schedule

—Recess—

Council Session Agenda, Wednesday, January 28, 2015, 1:30 p.m. until 5:30 p.m.:

1:30 p.m.–1:40 p.m.: Call to Order and Introductions, Adoption of Agenda and Approval of Minutes

1:40 p.m.–1:50 p.m.: The Council will receive an update on *Red Drum*

1:50 p.m.–2:50 p.m.: The Council will receive a briefing regarding the NOAA Fisheries Climate Science Strategy and discuss Council Member SEDAR Workshop for June 2015.

—Recess—

3 p.m.–5:30 p.m.: The Council will receive public testimony on Final Action—Framework Action to Adjust Recreational For-hire *Red Snapper* Management Measures and Revised Public Hearing Draft Amendment 28—*Red Snapper* Allocation; and open public comment period regarding other fishery issues or concerns. People wishing to speak before the Council should complete a public comment card prior to the comment period.

—Recess—

Council Session Agenda, Thursday, January 29, 2015, 8:30 a.m. until 4 p.m.:

8:30 a.m.–11:30 a.m.: The Council will receive a committee report from the Reef Fish Management Committee

1 p.m.–3:30 p.m.: The Council will receive committee reports from the Data Collection Management Committee, Gulf SEDAR Management Committee, Administrative Policy Committee and Mackerel Management Committee.

3:30 p.m.–4 p.m.: The Council will review Other Business items: Financial Disclosure Requirements.

—Adjourn—

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials see folder ''Briefing Books/Briefing Book 2015–01'' on Gulf Council file server. The username and password are both ''gulfguest''. The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

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 identified 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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–00148 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD700

New England 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 New England Fishery Management Council (Council) will hold a 3-day meeting on January 27–29, 2015 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, January 27, 2015 through Thursday, January 29, 2015, starting at 9:30 a.m. on Tuesday, January 27; and

8:30 a.m. on Wednesday and Thursday, January 28 and 29.

ADDRESSES: The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300; fax: (603) 431–7805. For online information see www.sheraton*portsmouth.com/*.

Council Address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

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

SUPPLEMENTARY INFORMATION:

Tuesday, January 27, 2015

The Council meeting will begin with introductions and brief reports from the NEFMC Chairman and Executive Director (to include a review and approval of an updated version of the Council's Statement of Organization, Practices, and Procedures), the NOAA Fisheries Regional Administrator, the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and NOAA Law Enforcement, and representatives of the Atlantic States Marine Fisheries Commission (ASMFC), U.S. Coast Guard and the Northeast Regional Ocean Council. A brief closed session will follow during which the Council will approve Scientific and Statistical Committee appointments for 2015–17. The Council will then provide an opportunity for the public to provide brief comments on items that are relevant to Council business but otherwise not listed on the published agenda.

During the afternoon session, the Council expects to discuss and determine an appropriate level of Council participation with ASFMC during the development of management measures for the Jonah Crab fishery in the EEZ. The Atlantic Coastal Cooperative Statistics Program staff (ACCSP) will provide an overview of its integrated data collection and distribution systems that are conducted in partnership with NOAA Fisheries, including dealer data collection and vessel trip reporting. During the a discussion of measures that will address recreational groundfish fishery activities, the Council will discuss recommendations for proactive accountability measures for Gulf of Maine haddock and Gulf of Maine cod for fishing year 2015. The day will close with a report, the Performance of the Northeast Multispecies Groundfish Fishery, May 2013–April 2014 to be presented by Northeast Fisheries Science Center staff.

Wednesday, January 28, 2015

The NEFMC Herring Committee will ask the Council to cover several issues that will continue until after the lunch break. They are as follows: (1) An update on the industry-based river herring bycatch avoidance program; (2) an update on the River Herring Technical Expert Working Group process, its timeline, and products; (3) a review of the NEFMC staff discussion document that addresses considerations related to adding river herring and shad as stocks in the Atlantic herring fishery; and (4) consideration and possible approval of related Herring Committee recommendations. The recommendations address cooperative research priorities for any research set-aside that may be allocated in 2016–18 during the Atlantic herring fishery specifications process; and approval of a scoping document for an amendment to the Atlantic Herring Fishery Management Plan that will address control rules for the Atlantic herring fishery to account for herring's role as forage in the ecosystem. During the remainder of the afternoon the Council's Observer Policy Committee will request that the Council review and approve a Draft Environmental Assessment for an omnibus amendment that could establish provisions for industry-funded monitoring (IFM) across all federally-managed fisheries in the Northeast. Related recommendations provided by the both the Observer Policy and Herring Committees will be considered. It is also expected that the Council will select preferred alternatives as well as options proposed to address observer coverage requirements for Atlantic herring vessels.

Thursday, January 29, 2015

During the final day of the meeting the Council will focus on three reports. During the first, there will be an overview of the 2014 independent evaluation of the Northeast Fisheries Science Center's processes and modeling approaches used to develop stock assessments. This will be followed by a briefing on NOAA Fisheries Draft Climate Science Strategy. The last will be an update on the annual state of the Northeast Continental Shelf ecosystem.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council 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 that the public has been notified of the Council's intent to take final action to address the emergency.

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 (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–00147 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD699

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold public meetings in American Samoa and Hawaii regarding the Council's Fishery Ecosystem Plans and American Samoa fishery management issues.

DATES: American Samoa Advisory Body Fishery Ecosystem Plan Review Meeting: Wednesday January 28, 2015 from 4 p.m. to 8:30 p.m.; Public Meeting on Large Pelagic Vessel Prohibited Area Thursday January 29, 2015 from 4 p.m. to 6:30 p.m.; American Samoa Regional Ecosystem Advisory Committee Fishery Ecosystem Plan Review Meeting: Friday January 30, 2015 from 8:30 a.m. to 2:30 p.m.; Hawaii Council Advisory Body Fishery Ecosystem Plan Review Meeting: Wednesday February 4, 2015 from 9 a.m. to 3 p.m.; Hawaii Regional Ecosystem Advisory Committee Fishery Ecosystem Plan Review Meeting: Thursday February 5, 2015 from 9 a.m. to 12 p.m.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific locations of meetings.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The locations of the meetings are as follows:

- American Samoa Council Advisory Body Fishery Ecosystem Plan Review Meeting: Sadies by the Sea Conference Room, Utulei;
- Public Meeting on Large Pelagic Vessel Prohibited Area: Sadies by the Sea Conference Room, Utulei;
- American Samoa Regional Ecosystem Advisory Committee Fishery Ecosystem Plan Review Meeting: Governor H. Rex Lee Auditorium, Utulei;
- Hawaii Council Advisory Body Fishery Ecosystem Plan Review Meeting: Council Office, 1164 Bishop St., Honolulu, HI;
- Hawaii Council Regional Ecosystem Advisory Committee Fishery Ecosystem Plan Review Meeting: Council Office, 1164 Bishop St., Honolulu, HI.

January 28, 2015 American Samoa Council Advisory Body FEP Meeting

Agenda:

1. Welcome and Introductions
2. Overview of the Council and its Fisheries
   A. Authority and Responsibilities
   B. Council Structure, Programs, and Fisheries
   C. Five Year Program Plan
3. Review of Council's Fishery Ecosystem Plans
   A. Background
   B. Purpose
   C. Intended Outcomes
   D. Major Process Elements
      i. Mandates
      ii. FEP Objectives
      iii. Decision-making Process
      iv. Data
4. Other Relevant Topics
5. Discussion and Recommendations

January 29, 2015 Public Meeting on Large Pelagic Vessel Prohibited Area

Agenda:

1. Welcome and Introductions
2. Brief Overview of the Council
3. Temporary exemption to fish with the current large vessel prohibited area
   A. Background and History
   B. Management Option under Consideration
4. Other Relevant Topics
5. Public Comment

January 30, 2015 American Samoa REAC FEP Meeting

Agenda: See January 28 American Samoa Council Advisory Body FEP Meeting agenda.

February 4, 2015 Hawaii Council Advisory Body FEP Meeting

Agenda:

1. Welcome and Introductions
2. Overview of the Council and its Fisheries
   A. Authority and Responsibilities
   B. Council Structure, Programs, and Fisheries
   C. Five Year Program Plan
3. Review of Council's Fishery Ecosystem Plans
   A. Background
   B. Purpose
   C. Intended Outcomes
   D. Major Process Elements
      i. Mandates
      ii. FEP Objectives
      iii. Decision-making Process
      iv. Data
4. Other Relevant Topics
5. Discussion and Recommendations

February 5, 2015 Hawaii REAC FEP Meeting

Agenda: See February 4 Hawaii Council Advisory Body FEP Meeting agenda.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: January 6, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–00149 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD697

South Atlantic Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of public hearing and scoping meetings.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold a series of public hearings pertaining to Amendment 35 to the Snapper Grouper Fishery Management Plan (FMP) for the South Atlantic and a scoping meeting for Amendment 26 to the Coastal Migratory Pelagic FMP for the South Atlantic and Gulf of Mexico.

DATES: The meetings will be held January 13, 2015 through February 4, 2015. A public hearing for Snapper Grouper Amendment 35 will be held in Key West, FL on January 13, 2015 beginning at 5:30 p.m.; a public hearing for Snapper Grouper Amendment 35 and a scoping meeting for Coastal Migratory Pelagic Amendment 26 will be held in Cocoa Beach on January 21, 2015 from 4 p.m. until 7 p.m., and a public hearing for Snapper Grouper Amendment 35 will be held in Georgetown, SC on January 27, 2015 from 4 p.m. until 7 p.m. In addition, a public scoping meeting for Coastal Migratory Pelagic Amendment 26 will be held via webinar on February 4, 2015 beginning at 6 p.m.

ADDRESSES:

Meeting Addresses:

1. January 13, 2015: Marriott Key West Beachside, 3841 N. Roosevelt Blvd., Key West, FL 33040; phone: (305) 296–8100.
2. January 21, 2015: Hilton Cocoa Beach Oceanfront, 1550 N. Atlantic Ave., Cocoa Beach, FL 32931; phone: (321) 799–0003.
3. January 27, 2015: Kimbel Lodge at Hobcaw Barony, 22 Hobcaw Road, Georgetown, SC 29442; phone: (843) 904–9024.
4. February 4, 2015: Scoping via Webinar at 6 p.m.—registration for the Webinar is required. Information regarding registration will be posted on the Council's Web site at *www.safmc.net.*

Council Address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows:

Public Hearing: Amendment 35 to the Snapper Grouper FMP

This amendment would remove four species from the Snapper Grouper Fishery Management Unit (black snapper, dog snapper, mahogany snapper and schoolmaster). In addition, the amendment would make modifications to the current commercial longline endorsements for golden tilefish. The changes to the endorsements are being proposed to reflect the Council's intent regarding which gear-specific quota (longline or hook-and-line) endorsements holders may fish under.

Public Scoping: Amendment 26 to the Coastal Migratory Pelagic FMP

The amendment addresses measures for king mackerel, including options to revise Annual Catch Limits and the stock boundary for king mackerel, allow the sale of king mackerel bycatch in the shark gillnet fishery, and establish a sub-quota specific to the new mixing zone.

Written comments may be directed to Bob Mahood, Executive Director, SAFMC (see **ADDRESSES**) or via email to: *Mike.Collins@safmc.net.* Note that email comments should specify the name of the amendment in the Subject Line of the email for which comments are being submitted. Public hearing comments for Snapper Grouper Amendment 35 will be accepted until 5 p.m. on February 4, 2015. Scoping comments for Coastal Migratory Pelagic Amendment 26 will be accepted until 5 p.m. on February 11, 2015. Copies of the public hearing and scoping documents are available from the Council's Web site at *www.safmc.net.*

Council staff will present an overview of the amendments and will be available for informal discussions and to answer questions. Members of the public will have an opportunity to go on record to record their comments on the public hearing and scoping topics for consideration by the Council. Local Council representatives will attend the meetings and listen to public comment.

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 this meeting. Action will be restricted to 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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 5, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–00102 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XZ51

Marine Mammals; File No. 15543

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Randall S. Wells, Ph.D. (Principal Investigator), Sarasota Dolphin Research Program, c/o Mote Marine Laboratory, 1600 Ken Thompson Parkway, Sarasota, FL 34236, has applied for an amendment to Scientific Research Permit No.15543–03.

DATES: Written, telefaxed, or email comments must be received on or before February 9, 2015.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No.15543 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Courtney Smith or Brendan Hurley, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 15543–03 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 15543, issued on May 26, 2011 (76 FR 32144), authorizes the permit holder to conduct photo-identification and behavioral studies, remote biopsy sampling, and temporary capture and release activities for health assessments of bottlenose dolphins. Research may occur in shallow, inshore and coastal waters of west Florida out to 50 miles offshore. The permit was modified with several minor amendments that further authorized the development of cell lines from blubber tissue (Permit No. 15543–01, issued September 21, 2011); the application of zinc oxide to mark animals to aid in their identification during post-tagging behavioral observations (Permit No. 15543–02, issued January 22, 2014); and the use of an unmanned aerial system (UAS) to aid in health assessment captures and field surveys (Permit No. 15543–03; issued May 1, 2014).

The applicant has requested to amend the permit by expanding the study area to include the bay, sound, estuary and associated coastal waters of Mobile Bay, Alabama, and Terrebonne Bay, Louisiana, and 160 annual takes in each location by remote biopsy sampling of bottlenose dolphins. Additionally, 160 annual biopsy takes will be added to the currently authorized allotment of Florida biopsy activities to include a focused study in Pensacola Bay, FL. These research activities aim to understand dolphin population dynamics, abundance, movement patterns, feeding ecology, and specific metrics of biological and physiological condition to understand acute and chronic effects of the Deepwater Horizon oil spill. Biopsy samples will be distributed to authorized recipients for processing.

The applicant has also requested to capture, satellite-tag, and release up to 25 Atlantic spotted dolphins (*Stenella frontalis*) for health assessments by hoop-netting bow-riding individuals during surveys on the West Florida Shelf. Up to 2 takes by unintentional mortality are requested annually. These activities will help to determine ranging patterns, dive behavior and habitat use of this understudied species. These same activities are already authorized for bottlenose dolphins under the current permit (No. 15543–03).

Finally, the applicant has requested a minor procedural modification to allow the administration of doubly-labeled water (deuterium oxide and oxygen-18) to bottlenose dolphins that are temporarily captured during health assessments. This procedure is part of a larger study to determine the metabolic rates of females with and without calves, and of 2–3 year old calves. The

doubly-labeled water will be administered via a stomach tube (procedural variants of this, lavage and gastric sampling, is already authorized under the current permit). Additional personnel with germane experience to this project are requested to be Co-investigators.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 24, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–00142 Filed 1–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–29–000]

Notice of Application: Transcontinental Gas Pipe Line Company, LLC

Take notice that on December 15, 2014, Transcontinental Gas Pipe Line Company, LLC (Transco), PO Box 1396, Houston, Texas 77251, filed in Docket No. CP15–29–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to construct: (i) An approximately seven-mile, 36-inch diameter pipeline; (ii) a new 32,000 horsepower (HP) compressor station; (iii) an additional 32,000 HP at its Compressor Station 44; (iv) piping and valve modifications at three existing compressor stations to allow for bi-directional flow; (v) two meter stations; (vi) various piping, valve modifications, and pig launchers and receivers; and (vii) appurtenances (Gulf Trace Expansion Project). The proposed facilities are located in Cameron, Beauregard, Evangeline, and East Feliciana Parishes, Louisiana. Transco states that the Gulf Trace Expansion Project will provide 1,200,000 dekatherms per day of firm transportation service to Sabine Pass Liquefaction, LLC's (Sabine Pass) liquefied natural gas terminal for Sabine Pass's liquefaction trains 3 and 4. Transco estimates the cost of the Gulf Trace Expansion Project to be approximately $278 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning these applications may be directed to Marg Camardello, Rates & Regulatory, Transcontinental Gas Pipe Line Company, LLC, PO Box 1396, Houston, Texas 77251–1396, by telephone at (713) 215–3380.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on January 21, 2015.

Dated: December 31, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00088 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application

Black Hills Shoshone Pipeline, LLC ..... Docket No. CP15–32–000
Energy West Development, Inc ..... Docket No. CP15–33–000

Take notice that on December 16, 2014, Black Hills Shoshone Pipeline, LLC (BHS), 1301 West 24th Street, Cheyenne, Wyoming 82001, and Energy West Development, Inc. (EWD), 1 First Avenue South, Great Falls, Montana 59401, filed a joint application under section 7 of the Natural Gas Act (NGA) requesting: (1) an order from the Commission pursuant to Section 7(b) of the NGA authorizing EWD to abandon by sale the Shoshone Pipeline, a natural gas pipeline located in Wyoming and Montana; and (2) a certificate of public convenience and necessity pursuant to Section 7(c) of the NGA authorizing BHS to own and operate the Shoshone Pipeline. BHS proposes to operate the Shoshone Pipeline as a natural gas pipeline performing the same NGA jurisdictional transportation services currently offered under the ownership of EWD, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Patrick Joyce, Black Hills Corporation, 1102 E. First Street, Papillion, Nebraska, 68046, or call (402) 221–2691, or fax (402) 829–2691 or by email *Patrick.Joyce@blackhillscorp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on January 23, 2015.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00191 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–543–000]

Notice of Availability of the Environmental Assessment for the Proposed Jackson Prairie Storage Facility Project; Puget Sound Energy, Inc.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Jackson Prairie Storage Facility Project proposed by Puget Sound Energy, Inc. (Puget Energy) in the above-referenced docket. Puget Energy requests authorization to construct, operate, and abandon certain facilities at its existing Jackson Prairie Storage Facility in Lewis County, Washington.

The EA assesses the potential environmental effects of the construction and operation of the Jackson Prairie Storage Facility Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed project includes the following activities:

- Permanently plug and abandon four gas wells (Well Nos. 1, 11, 31, and 47) that have not been used in several years and may contribute to cushion gas

migration from the principal storage zone (Zone 2) of the Jackson Prairie Storage Facility into the gas recapture zone (Zone 1);

• renew the authorization to convert an observation well (Well No. 52) to a gas recycle well in Zone 1 and to build approximately 500 feet of 3-inch-diameter natural gas pipeline to tie Well No. 52 into a gathering pipeline; and

• drill a new water withdrawal well (Well No. 91) and construct related facilities to continue normal maintenance water withdrawal.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before February 2, 2015.

For your convenience, there are three methods you can use to file your comments with the Commission. In all instances please reference the project docket number (CP14–543–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP14–543). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

[1] See the previous discussion on the methods for filing comments.

Dated: January 2, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00087 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–22–000 CP15–24–000]

Dominion Cove Point LNG, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed St. Charles Transportation and Keys Energy Projects and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of two related projects—the St. Charles Transportation and Keys Energy Projects—both involving construction and operation of facilities proposed by Dominion Cove Point LNG, LP (DCP) in Fairfax County, Virginia and Charles County, Maryland. The Commission will use this EA in its decision-making process to determine whether the projects are in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the projects. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on February 4, 2015.

You may submit comments in written form. Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on this project to the Commission before the opening of these dockets on December 3, 2014, you will need to file those comments in Docket No. CP15–22–000 for the St. Charles Transportation Project, and CP15–24–000 for the Keys Energy Project, to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to

construct, access, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

DCP provided potentially affected landowners and residents within 0.5 mile radius around the proposed compression upgrades a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

DCP proposes to construct, install, own, operate, and maintain certain facilities located in Fairfax County, Virginia and Charles County, Maryland which comprise the St. Charles Transportation Project and the Keys Energy Project. These projects would involve the installation of new facilities and modification of existing facilities.

The St. Charles Transportation Project would consist of the following facilities:

- Pleasant Valley Compressor Station (Fairfax County, Virginia)
  - Install one new 7,000-horsepower (hp) electric compressor at the existing compressor station;
  - extend the existing compressor building;
  - replace the existing filter-separator with one new filter-separator;
  - add one new gas cooler; and
  - install miscellaneous piping and measurement upgrades, meter runs, piping, fitting and valves.
- Competitive Power Ventures (CPV) Maryland Interconnect (Charles County, Maryland)
  - Install two new 16-inch taps (one on TL–522 and one on TL–532) for customer delivery.

The St. Charles Transportation Project would allow delivery of an additional 132,000 dekatherms per day (Dt/d) of natural gas to CPV Maryland, LLC (CPV Maryland). According to DCP, additional compression at the Pleasant Valley Compressor Station is required to deliver gas to CPV Maryland. The two new 16-inch taps would be required for customer delivery.

The Keys Energy Project would consist of the following facilities:

- Pleasant Valley Compressor Station (Fairfax County, Virginia)
  - Install one new 6,000-hp electric compressor and one new gas cooler at the existing compressor station; and
  - add necessary interconnecting pipe work to and from supply/discharge headers.
- Keys Energy Interconnect (Charles County, Maryland)
  - Install two new 16-inch taps (one on TL–522 and one on TL–532) for customer delivery;
  - construct a metering and regulating (M&R) station that would feed gas from the new taps to the Keys Energy, LLC (Keys Energy) lateral line1; and
  - construct a dekatherm building that would house electronic flow control equipment.

The Keys Energy Project would provide an additional approximately 107,000 Dt/d of natural gas to a new generating station to be constructed by Keys Energy (Keys Energy Center, Prince George's County, Maryland). According to DCP, the Pleasant Valley Compressor Station would provide additional compression that is required to deliver gas to the Keys Energy Center. The two new 16-inch taps would be required for customer delivery.

The general locations of the project facilities are shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities for the St. Charles Transportation Project would disturb about 22.6 acres of land for the aboveground facilities. Following construction, DCP would maintain about 1.5 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

Construction of the proposed facilities for the Keys Energy Project would disturb about 28.5 acres of land for the aboveground facilities. Following construction, DCP would maintain about 2.1 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. The proposed facility modifications for both the St. Charles Transportation and Keys Energy Projects would occur within an agricultural field; existing compressor station property; or within existing, maintained DCP rights-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife, including migratory birds;
- air quality and noise;
- endangered and threatened species; and
- public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, no agencies have expressed an intention to participate as a cooperating agency in the preparation of the EA to satisfy its NEPA responsibilities related to this project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for these projects will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the projects. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before February 4, 2015.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket numbers (CP15–22–000 and/or CP15–24–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the projects. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed projects.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the projects is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* 000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: January 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00156 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–748–000]

Garrison Energy Center LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Garrison Energy Center LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 22, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00187 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–760–000]

Western Antelope Blue Sky Ranch A LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of WESTERN ANTELOPE BLUE SKY RANCH A LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 22, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00192 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–697–001]

Tonopah Solar Energy, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Tonopah Solar Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is January 26, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00157 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–647–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; Kay Wind, LLC

This is a supplemental notice in the above-referenced proceeding, of Kay Wind, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR. part 34, of future issuances of securities and assumptions of liability is January 20, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 31, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00089 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–794–000

Catalyst Paper Operations Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Catalyst Paper Operations Inc.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is January 26, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00158 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–742–000]

Chief Energy Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Chief Energy Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 22, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00186 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–731–000]

Hampshire Council of Governments; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hampshire Council of Governments' application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 22, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00185 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–762–000]

Sierra Solar Greenworks LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SIERRA SOLAR GREENWORKS LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 22, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00193 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–745–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; AM Commodities Corporation

This is a supplemental notice in the above-referenced proceeding, of AM Commodities Corporation's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is January 20, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 31, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00090 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–820–000]

Zone One Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Zone One Energy LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is January 26, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00159 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the

following meeting related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting:

January 6, 2015, 10:05 a.m.–11:25 a.m. (EST)

The above-referenced meeting will be via teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/energy_future/nyiso_planning/nyiso_services/index.jsp*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Order No. 1000, Final Rule on Transmission Planning and Cost Allocation by Transmission Owning and Public Utilities, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g and clarification,* Order No. 1000–A, 139 FERC ¶ 61,132 (2012).

Docket No: ER13–102, New York Independent System Operator, Inc. and New York Transmission Owners.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov*.

Dated: January 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00160 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–22–000]

Nevada Power Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

January 5, 2015.

On December 9, 2014, the Commission issued an order in Docket No. EL15–22–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation concerning the justness and reasonableness of the Berkshire MBR Sellers' and their affiliates' market-based rates in the PACE, PACW, Idaho Power, and NorthWestern balancing authority areas. *Nevada Power Company, et al.,* 149 FERC ¶ 61,219 (2014).

The refund effective date in Docket No. EL15–22–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00154 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–37–000]

Notice of Request Under Blanket Authorization: Texas Eastern Transmission, LP

Take notice that on December 19, 2014, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed a prior notice application pursuant to section 7(c) of the Natural Gas Act (NGA) and sections 157.205 and 157.208 of the Federal Energy Regulatory Commission's (Commission) regulations under the NGA, and Texas Eastern's blanket certificate issued in Docket No. CP82–535–000. Texas Eastern seeks authorization to replace certain sections of three different pipelines located in Madison County, Kentucky to accommodate a U. S. Department of Transportation (DOT) required pipeline class change, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed Lisa A. Connolly, General Manager, Rates & Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, or phone (713) 627–4102, or fax (713) 627–5947, or by email *laconnolly@spectraenergy.com.*

Specifically, Texas Eastern proposes to replace 2,960 feet of 30-inch diameter pipe on Line No. 10, 3,060 feet of 30-inch diameter pipe on Line No. 15, and 658 feet of 30-inch diameter pipe and 1,903 feet of 36-inch diameter pipe on Line No. 25 with new pipe to accommodate a DOT pipeline class change to Class 3 from Class 1 due to encroachment of new structures in the area of the applicable sections of pipeline. The project will allow Texas Eastern to continue the safe operation of its system and to comply with DOT pipeline class requirements.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of

environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: December 31, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00092 Filed 1–8–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9018–8]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements
Filed 12/29/2014 Through 01/02/2015
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: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20140384, Draft EIS, FAA, AK, Angoon Airport Project, Comment Period Ends: 03/11/2015, Contact: Leslie Grey 907–271–5453

EIS No. 20140385, Final EIS, BLM, NV, Long Canyon Mine, Review Period Ends: 02/09/2015, Contact: Whitney Wirthlin, 775–861–6568

EIS No. 20150000, Draft Supplement, GSA, VA, USDOS Foreign Affairs Security Training Center (FASTC), Comment Period Ends: 02/23/2015, Contact: Myles Vaughan 215–756–5948

Dated: January 6, 2015.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015–00172 Filed 1–8–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9921–45-Region-5]

Notice of Renewal of Federal Operating Permit for Grand Casino Mille Lacs

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice announces that, on December 5, 2014, pursuant to title V of the Clean Air Act (Act), the Environmental Protection Agency (EPA) issued a federal operating permit renewal to the Mille Lacs Band Corporate Commission for the Grand Casino Mille Lacs in Onamia, Minnesota. The operating permit authorizes the operation of four diesel-fired generators used for backup power and peak load management and of one diesel-fired emergency generator.

ADDRESSES: The final signed permit is available for public inspection online at *http://yosemite.epa.gov/r5/r5ard.nsf/Tribal+Permits!OpenView,* or during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604. We recommend that you call Michael Langman, Environmental Scientist, at (312) 886–6867 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Langman, Environmental Scientist, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6867, *langman.michael@epa.gov.*

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

A. What Is the Background Information?

The Mille Lacs Band Corporate Commissions owns and operates Grand Casino Mille Lacs, which is located on lands held in trust for the Mille Lacs Band of Ojibwe Indians in Onamia, Minnesota. Emission units at Grand Casino Mille Lacs consist of five diesel-fired generators. Four diesel-fired generators are used for backup power and peak load management operations and one diesel-fired generator is used for emergency backup power generation.

On February 24, 2014, the Mille Lacs Band Corporate Commission submitted an operating permit renewal application pursuant to 40 CFR part 71. On April 9, 2014, EPA determined that the submitted application was timely and complete and, therefore, granted an application shield pursuant to 40 CFR 71.7(b). The application shield allowed the facility to continue to operate pursuant to the terms and conditions of its expiring operating permit without violating the Act's prohibition on operation without a permit, until EPA took final action on the permit renewal application.

On July 11, 2014, EPA requested additional information required to make a final decision on the permit application. The Mille Lacs Band Corporate Commission submitted its response to the request for additional information on August 4, 2014.

On October 24, 2014, EPA issued a draft renewal permit for public comment pursuant to 40 CFR 71.11(d). The public comment period ended on November 24, 2014. EPA did not receive any comments regarding the proposal to renew the permit.

EPA issued the final permit for Grand Casino Mille Lacs, permit number V–ML–2709500005–2014–10, on December 5, 2014. Pursuant to 40 CFR 71.11(i)(2)(iii), the permit became effective immediately upon issuance since EPA did not receive any comments requesting a change in the draft permit.

B. Appeal of the Permit

Pursuant to 40 CFR 71.11(l), because no one filed comments on the proposed permit renewal and the final permit is identical to the permit as proposed, any person may petition for administrative review of the permit only to the extent that grounds for a petition have arisen that were not reasonably foreseeable during the public comment period on the draft permit. The 30-day period during which a person may seek review under 40 CFR 71.11(l) began on December 10, 2014, the date on which EPA notified the Mille Lacs Band Corporate Commission of issuance of the permit.

C. What Is the Purpose of This Notice?

EPA is notifying the public of the issuance of a title V operating permit renewal, permit number V–ML–2709500005–2014–10, issued on December 5, 2014, to the Mille Lacs Band Corporate Commission for the Grand Casino Mille Lacs. The permit became effective on December 5, 2014.

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

Dated: December 30, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2015–00163 Filed 1–8–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9921–47–Region–1]

Notice of Availability of Draft NPDES General Permit for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts; Reopening of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice; reopening of comment period.

SUMMARY: Environmental Protection Agency (EPA) issued a Notice of Availability of the draft Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) general permit for Massachusetts, published in the **Federal Register** on September 30, 2014. This notice reopens the comment period through February 27, 2015. Comments submitted between the close of the original comment period (December 29, 2014) and the reopening of this comment period will be accepted and considered.

DATES: The comment period for the draft general permit published September 30, 2014 (79 FR 58774) is reopened through February 27, 2014. All comments must be received on or before February 27, 2015.

ADDRESSES: Submit comments by one of the following methods:

- *Email: Tedder.Newton@epa.gov.*
- *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding legal holidays from: Newton Tedder, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *Tedder.Newton@epa.gov.*

SUPPLEMENTARY INFORMATION: This notice reopens the public comment period established in the **Federal Register** issue of September 30, 2014 (79 FR 58774) (FRL–9917–31–Region–1). In that notice, EPA announced the availability for public comment of its draft small MS4 NPDES general permit for Massachusetts. All draft permit documents can be found at *http://www.epa.gov/region1/npdes/stormwater/MS4_MA.html.* This reopening of the comment period is in response to requests received from several commenters to extend the comment period.

Dated: December 22, 2014.

Deb Szaro,

Acting Regional Administrator, Region 1.

[FR Doc. 2015–00167 Filed 1–8–15; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 8, 2015, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- December 11, 2014

B. Reports

- Equal Employment Opportunity and Inclusion Update
- Auditor's Report on FCA FY 2014/2013 Financial Statements

Closed Session*

- Executive Meeting with Auditors

Dated: January 7, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–00260 Filed 1–7–15; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 12–375; DA 14–1848]

Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission granted in part the Prison Policy Initiative's (PPI) request that parties be given additional time to comply with the Commission's request for comments. Citing questions raised in the Commission's Second Further Notice of Proposed Rulemaking, PPI argued that the extension, if granted, would allow parties added time to provide more thorough, meaningful responses. The extension moves the deadline for comments and reply comments.

DATES: The deadline for filing comments is due on or before January 12, 2015. The deadline for reply comments is due on or before January 27, 2015.

ADDRESSES: You may submit comments, identified by WC Docket No. 12–375, by any of the following methods:

- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynne Engledow, Pricing Policy Division, Wireline Competition Bureau, 202–418–1540 or *Lynne.Engledow@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order,

*Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(2).

WC Docket 12–375, DA 14–1848, released December 17, 2014. The full text of this document may be downloaded at the following Internet address: *http://www.fcc.gov/document/comment-deadlines-extended-inmate-calling-second-fnprm.* The complete text may be purchased from Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request alternative formats for persons with disabilities (*e.g.,* accessible format documents, sign language, interpreters, CARTS, etc.), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY). This document does not contain information collections subject to the Paperwork Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden[s] for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Summary

1. On October 22, 2014, the Commission released a Second Notice of Proposed Rulemaking (*Inmate Calling Second FNPRM*), seeking comment on a number of issues. On December 10, 2014, the Prison Policy Initiative (PPI) filed a letter requesting additional time for parties to respond to questions raised in the Commission's *Inmate Calling Second FNPRM.* PPI contends the additional time will improve the quality of responses the Commission receives from the public and industry participants, and further facilitate the Commission's consideration of key issues at the center of this proceeding.

2. PPI states that it has spoken with several interested parties that consent to this request. However, in its opposition to the PPI Request, Securus Technologies, Inc. (Securus) argued that respondents have already had a sufficient amount of time to prepare their responses, and ''the issues under consideration in this proceeding must be resolved expeditiously in order to provide finality to what is now a volatile market.''

3. Upon review the Commission agrees in part with the modest extension requested by PPI, as it allows for more fulsome comments that will facilitate the compilation of a complete record in this proceeding, without undue delay to its consideration of these issues.

Federal Communications Commission.

Lynne Engledow,

Deputy Chief, Pricing Policy Division.

[FR Doc. 2015–00100 Filed 1–8–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 26, 2015.

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

1. *Jeffry Anderson and Bruce A. Anderson,* both of Lakota, North Dakota; each to retain voting shares of Lakota Bank Holding Company, Inc., and thereby indirectly retain voting shares State Bank of Lakota, both in Lakota, North Dakota.

Board of Governors of the Federal Reserve System, January 6, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–00165 Filed 1–8–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend for three years the current PRA clearances for information collection requirements contained in three product labeling rules enforced by the Commission. Those clearances expire on March 31, 2015.

DATES: Comments must be received on or before March 10, 2015.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Apparel Rules: FTC File No. P074201'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/apparelrulespra* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Robert M. Frisby, 202–326–2098, or Lemuel Dowdy, 202–326–2981, Attorneys, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW., Room CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Proposed Information Collection Activities

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. ''Collection of information'' means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements associated with the Commission's rules and regulations under the rules and regulations under the Wool Products Labeling Act of 1939 (''Wool Rules''), 16 CFR part 300 (OMB Control Number 3084–0100); rules and regulations under the Textile Fiber

Products Identification Act (''Textile Rules''), 16 CFR part 303 (OMB Control Number 3084–0101); and the Care Labeling of Textile Wearing Apparel and Certain Piece Goods As Amended (''Care Labeling Rule''), 16 CFR 423 (OMB Control Number 3084–0103).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond.[1] All comments must be received on or before March 10, 2015.

Burden Estimates

Staff's burden estimates for the three rules in question are based on data from the Department of Commerce's Bureau of the Census, the International Trade Commission, the Department of Labor's Bureau of Labor Statistics (''BLS''), and data or other input from the main industry association, the American Apparel and Footwear Association (AAFA). The AAFA, a national trade association which represents U.S. apparel, footwear and other sewn products companies and their suppliers, has stated that ''[t]he use of labels on textiles and apparels is beneficial to consumers, manufacturers, and business in general as it allows for the necessary flow of information along the supply chain.''[2] The relevant information collection requirements in these rules and staff's corresponding burden estimates follow. The estimates address the number of hours needed and the labor costs incurred to comply with the requirements. Staff believes that a significant portion of hours and labor costs currently attributable to burden below are time and financial resources usually and customarily incurred by persons in the course of their regular activity (*e.g.,* industry participants already have and/or would have care labels regardless of the rule(s)) and could be excluded from PRA-related burden.[3]

1. Wool Rules (OMB Control Number: 3084–0100)

The Wool Products Labeling Act of 1939 (''Wool Act'')[4] prohibits the misbranding of wool products. The Wool Rules establish disclosure requirements that assist consumers in making informed purchasing decisions and recordkeeping requirements that assist the Commission in enforcing the Rules.

Estimated annual hours burden: 1,880,000 hours (160,000 recordkeeping hours + 1,720,000 disclosure hours).

Recordkeeping: Staff estimates that approximately 4,000 wool firms are subject to the Wool Rules' recordkeeping requirements. Based on an average annual burden of 40 hours per firm, the total recordkeeping burden is 160,000 hours.

Disclosure: Approximately 8,000 wool firms, producing or importing about 600,000,000 wool products annually, are subject to the Wool Rules' disclosure requirements. Staff estimates the burden of determining label content to be 30 hours per year per firm, or a total of 240,000 hours, and the burden of drafting and ordering labels to be 60 hours per firm per year, or a total of 480,000 hours. Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 360,000,000 items (60 percent of 600,000,000), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 1,000,000 hours per year. Thus, the total estimated annual burden for all firms is 1,720,000 hours (240,000 hours for determining label content + 480,000 hours to draft and order labels + 1,000,000 hours to attach labels). Staff believes that any additional burden associated with advertising disclosure requirements would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: $16,380,000, rounded to the nearest thousand (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$ 26.00	240,000	$6,240,000
Draft and order labels	17.00	480,000	8,160,000
Attach labels	[5] 5.50	1,000,000	5,500,000
Recordkeeping	17.00	160,000	2,720,000
Total			$16,380,000

Staff believes that there are no current start-up costs or other capital costs associated with the Wool Rules. Because the labeling of wool products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rules. Based on knowledge of the industry,

[1] As part of its regulatory review program, the Commission is currently reviewing the Care Labeling Rule. *See Federal Trade Commission: Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended: Notice of Proposed Rulemaking; Request for Public Comment,* 77 FR 58338 (Sept. 20, 2012). The Commission held a public roundtable on the proposed amendments on March 28, 2014. *See* 79 FR 9442 (Feb. 19, 2014).

The Commission recently completed its review of the Textile and Wool Rules. *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule,* 79 FR 18766 (Apr. 4, 2014); *Federal Trade Commission: Rules and Regulations under the Wool Products Labeling Act of 1939; Final Rule,* 79 FR 32157 (June 4, 2014).

[2] Page one from comment by Kevin M. Burke, President and CEO, American Apparel & Footwear Association, March 26, 2012, *Advance Notice of Proposed Rulemaking; Request for Public Comment; Rules and Regulations under the Wool Products Labeling Act of 1939;* 77 FR 4498 (Jan. 30, 2012).

[3] 5 CFR 1320.3(b)(2).

[4] 15 U.S.C. 68 *et seq.*

[5] For imported products, the labels generally are attached in the country where the products are manufactured. According to information compiled by an industry trade association using data from the U.S. Department of Commerce, International Trade Administration and the U.S. Census Bureau, approximately 97.5% of apparel used in the United States is imported. With the remaining 2.5% attributable to U.S. production at an approximate domestic hourly wage of $10 to attach labels, staff has calculated a weighted average hourly wage of $5.50 per hour attributable to U.S. and foreign labor combined. The estimated percentage of imports supplied by particular countries is based on trade data for the year ending in September 2014 compiled by the Office of Textiles and Apparel, International Trade Administration. Wages in major textile exporting countries, factored into the above hourly wage estimate, were based on 2012 data from the U.S. Department of Labor, Bureau of Labor Statistics. *See* Table 1.1 Indexes of hourly compensation costs in manufacturing, U.S. dollar basis, 1996–2012 (Index, U.S. = 100) available at: *http://www.bls.gov/fls/#compensation.*

staff believes that much of the information required by the Wool Act and Rules would be included on the product label even absent their requirements. Similarly, recordkeeping and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

2. Textile Rules (OMB Control Number: 3084–0101)

The Textile Fiber Products Identification Act (''Textile Act'') [6] prohibits the misbranding and false advertising of textile fiber products. The Textile Rules establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Rules. The Rules also contain a petition procedure for requesting the establishment of generic names for textile fibers.

Estimated annual hours burden: 39,186,772 hours (1,237,015 recordkeeping hours + 37,949,757 disclosure hours).

Recordkeeping: Staff estimates that approximately 19,031 textile firms are subject to the Textile Rules' recordkeeping requirements. Based on an average burden of 65 hours per firm, the total recordkeeping burden is 1,237,015 hours.

Disclosure: Approximately 22,642 textile firms, producing or importing about 20.8 billion textile fiber products annually, are subject to the Textile Rules' disclosure requirements.[7] Staff estimates the burden of determining label content to be 65 hours per year per firm, or a total of 1,471,730 hours and the burden of drafting and ordering labels to be 80 hours per firm per year, or a total of 1,811,360 hours.[8] Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 12.48 billion items (60 percent of 20.8 billion), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 34,666,667 hours per year. Thus, the total estimated annual burden for all firms is 37,949,757 hours (1,471,730 hours to determine label content + 1,811,360 hours to draft and order labels + 34,666,667 hours to attach labels).[9] Staff believes that any additional burden associated with advertising disclosure requirements or the filing of generic fiber name petitions would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: $280,754,000, rounded to the nearest thousand (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$ 26.00	1,471,730	$38,264,980
Draft and order labels	17.00	1,811,360	30,793,120
Attach labels	[10] 5.50	34,666,667	190,666,669
Recordkeeping	17.00	1,237,015	21,029,255
Total			$280,754,024

Staff believes that there are no current start-up costs or other capital costs associated with the Textile Rules. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rules' labeling requirements. Industry sources indicate that much of the information required by the Textile Act and Rules would be included on the product label even absent their requirements. Similarly, recordkeeping, invoicing, and advertising disclosures are tasks performed in the ordinary course of business; therefore, covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

3. The Care Labeling Rule (OMB Control Number: 3084–0103)

The Care Labeling Rule requires manufacturers and importers to attach a permanent care label to all covered textile clothing in order to assist consumers in making purchase decisions and in determining what method to use to clean their apparel. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric.

Estimated annual hours burden: 34,742,226 hours (solely relating to disclosure [11]).

Staff estimates that approximately 22,642 manufacturers or importers of textile apparel, producing about 18.4 billion textile garments annually, are subject to the Rule's disclosure requirements. The burden of developing

[6] 15 U.S.C. 70 *et seq.*

[7] The estimated consumption of garments in the U.S. in 2012 was 19.4 billion. However, staff estimates that 1 billion garments are exempt from the Textile Act (*i.e.,* any kind of headwear and garments made from something other than a textile fiber product, such as leather) or are subject to a special exemption for hosiery products sold in packages where the label information is contained on the package. Based on available data, staff estimates that an additional 3 billion household textile products (non-garments, such as sheets, towels, blankets) were consumed. However, approximately 0.6 billion of all of these garments and household products are subject to the Wool Act, not the Textile Act, because they contain some amount of wool. Thus, the estimated net total products subject to the Textile Act is 20.8 billion (19.4 − 1 + 3 = 21.4 − 0.6 = 20.8 billion).

[8] In 2007, Congress amended the Wool Act to explicitly define ''cashmere'' and certain terms used to describe superfine wool (*e.g.,* ''Super 80s,'' ''Super 90s,'' etc.). See Public Law 109–428. In 2014, the Commission revised the Wool Rules to incorporate these amendments as well as to clarify and streamline certain provisions and to allow more flexibility in marketing wool products (*e.g.,* allowing the use of certain hang-tags that do not disclose a product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. *See* 79 FR 32157 (June 4, 2014).

[9] The Commission revised the Textile Rules in 2006 in response to amendments to the Textile Act. *See* 70 FR 73369 (Dec. 12, 2005). These amendments concerned the placement of labels on packages of certain types of socks and, therefore, do not place any additional disclosure burden on covered entities. In 2014, the Commission revised the Textile Rules to clarify and streamline certain provisions and to allow more flexibility in marketing textile products (*e.g.,* allowing the use of certain hang-tags that do not disclose the product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. *See* 79 FR 18766 (Apr. 4, 2014).

[10] *See* note 3.

[11] The Care Labeling Rule imposes no specific recordkeeping requirements. Although the Rule requires manufacturers and importers to have reliable evidence to support the recommended care instructions, companies rely on current technical literature or past experience.

proper care instructions may vary greatly among firms, primarily based on the number of different lines of textile garments introduced per year that require new or revised care instructions. Staff estimates the burden of determining care instructions to be 100 hours each year per firm, for a cumulative total of 2,264,200 hours. Staff further estimates that the burden of drafting and ordering labels is 80 hours each year per firm, for a total of 1,811,360 hours. Staff believes that the process of attaching labels is fully automated and integrated into other production steps for about 40 percent of the approximately 18.4 billion garments that are required to have care instructions on permanent labels.[12] For the remaining 11.04 billion items (60 percent of 18.4 billion), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 30,666,667 hours per year. Thus, the total estimated annual burden for all firms is 34,742,226 hours (2,264,200 hours to determine care instructions + 1,811,360 hours to draft and order labels + 30,666,666 hours to attach labels).

Estimated annual cost burden: $258,329,000, rounded to the nearest thousand (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine care instructions	$ 26.00	2,264,200	$58,869,200
Draft and order labels	17.00	1,811,360	30,793,120
Attach labels	[13] 5.50	30,666,667	168,666,669
Total			258,328,989

Staff believes that there are no current start-up costs or other capital costs associated with the Care Labeling Rule. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rule's labeling requirements. Based on knowledge of the industry, staff believes that much of the information required by the Rule would be included on the product label even absent those requirements.

Request for Comments

You can file a comment online or on paper. Write ''Apparel Rules: FTC File No. P074201'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as a Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, the Commission encourages you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/apparelrulespra* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Apparel Rules: FTC File No. P074201'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610, (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 10, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2015–00166 Filed 1–8–15; 8:45 am]

BILLING CODE 6750–01–P

[12] About 1 billion of the 19.4 billion garments produced annually are either not covered by the Care Labeling Rule (gloves, hats, caps, and leather, fur, plastic, or leather garments) or are subject to an exemption that allows care instructions to appear on packaging (hosiery).

[13] *See* note 3.

GENERAL SERVICES ADMINISTRATION

[Notice–FAS–2014–02; Docket: 2014–0002; Sequence: 39]

Notice of Public Meeting for the Supplemental Draft Environmental Impact Statement for the U.S. Department of State Foreign Affairs Security Training Center in Nottoway County, Virginia

AGENCY: U.S. General Services Administration (GSA).

ACTION: Meeting Notice.

SUMMARY: Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of the National Environmental Policy Act, the U.S. General Services Administration (GSA) has prepared and filed with the U.S. Environmental Protection Agency (EPA) a Supplement to the 2012 Draft Environmental Impact Statement (EIS) for the U.S. Department of State (DOS), Bureau of Diplomatic Security, Foreign Affairs Security Training Center (FASTC). GSA is the lead agency; cooperating agencies are DOS, U.S. Army Corps of Engineers (ACE), EPA, and National Guard Bureau (NGB). The Supplemental Draft EIS was prepared to evaluate the environmental impacts of site acquisition and development of FASTC at the Virginia Army National Guard Maneuver Training Center (VA ANG MTC) at Fort Pickett and Nottoway County's Local Redevelopment Authority area in Nottoway County, Virginia.

DATES: *Comment date:* The public may submit comments on the Supplemental Draft EIS during a 45-day public review and comment period beginning January 9, 2015 with publication of this notice and ending on February 23, 2015. Instructions for submitting comments may be found under the heading **SUPPLEMENTARY INFORMATION** in this notice.

Public Meeting: A public information meeting is scheduled for January 26, 2015, between 7:00 p.m. and 8:00 p.m., Eastern Standard Time, in the Auditorium at the Blackstone Conference and Retreat Center located at 707 Fourth Street, Blackstone VA 23824.

ADDRESSES: Send written comments by email to *FASTC.info@gsa.gov,* or U.S. Postal Service to: Ms. Abigail Low, GSA Project Manager, 20 N. 8th Street, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Abigail Low, GSA Project Manager; 20 N. 8th Street, Philadelphia, PA 19107 215–446–4815, or email at *FASTC.info@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The purpose of the proposed FASTC in Nottoway County is to consolidate existing dispersed hard skills training functions into a single suitable location to improve training efficiency and enhance training operations. The proposed FASTC is needed to meet the increased demand for well-trained security personnel. A Notice of Intent to prepare a Supplemental Draft EIS was published in the **Federal Register** at 79 FR 52336 on September 3, 2014. A public scoping period and public scoping meeting for the proposed action were held in October 2011 in relation to the 2012 Draft EIS. Additionally, the public was invited to submit comments concerning the proposal for 30 days from publication of the September 3, 2014 Notice of Intent to prepare a Supplemental Draft EIS.

The alternatives fully evaluated in the Supplemental Draft EIS include the No Action Alternative and Build Alternative 3. Build Alternative 3 was developed based on the 2014 Master Plan Update that incorporates the adjustments in the FASTC program. The Preferred Alternative is Build Alternative 3.

The Supplemental Draft EIS incorporates by reference and builds upon the analyses presented in the 2012 Draft EIS and documents the Section 106 process under the National Historic Preservation Act of 1966, as amended (36 CFR part 800). The Supplemental Draft EIS addresses substantial changes to the proposed action that are relevant to environmental concerns and assesses any new circumstances or information relevant to potential environmental impacts.

In early 2013, all efforts on the Final EIS and work on the proposed site at Fort Pickett and Nottoway County's LRA area were put on hold pending additional due diligence and reviews at an existing federal training site in Georgia. As part of this due diligence effort, DOS conducted site visits to the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. During this time period, DOS also assessed the scope and size of the FASTC project and determined a smaller platform was more fiscally prudent.

In April 2014, the earlier DOS selection of the proposed site for FASTC at Fort Pickett and Nottoway County was reaffirmed. Planning for the site resumed based on a reduced scope of requirements compared with the 2012 plan. The project would now proceed as a hard skills only facility, which consists of driving tracks, firing ranges, a mock urban environment, explosives ranges, and associated classrooms and administrative functions. Several hard skills training venues have been consolidated. Soft skills training, such as simulation labs, and life support functions, such as dormitories and dining facilities have been eliminated from the program. More information on the proposed FASTC program is available at *http://www.state.gov/recovery/fastc.*

The Supplemental Draft EIS has been distributed to various federal, state, and local agencies. The Supplemental Draft EIS is available for review on the project Web site *http://www.state.gov/recovery/fastc.* A printed copy of the Supplemental Draft EIS is available for viewing at the following libraries:

- Nottoway County Library—Louis Spencer Epes Memorial Library, 415 South Main St., Blackstone, VA
- Amelia County—James L. Hamner Public Library, 16351 Dunn Street, Amelia, VA
- Brunswick County—Brunswick County Library, 133 W. Hicks Street, Lawrenceville, VA
- Dinwiddie County—Dinwiddie Library, 14103 Boydton Plank Road, Dinwiddie, VA
- Lunenburg County—Ripberger Library, 117 South Broad St., Kenbridge, VA
- Prince Edward County—Farmville—Prince Edward Community Library, 1303 West 3rd Street, Farmville, VA
- Chesterfield County—Central Library, 9501 Lori Road, Chesterfield, VA
- Mecklenburg County—Southside Regional Library, 316 Washington Street, Boydton, VA

Federal, state, and local agencies, and other interested parties, are invited and encouraged to be present or represented at the public meeting on January 26, 2015. All formal comments will become part of the public record and substantive comments will be responded to in the Final EIS.

Public Comments: Comments on the Supplemental Draft EIS can be submitted three ways: (1) Submit comments via the FASTC email address: *FASTC.info@gsa.gov,* (2) provide written comments during the public meeting, or (3) mail a comment form or letter to: Ms. Abigail Low, GSA Project Manager, 20 N. 8th Street, Philadelphia, PA 19107. Written comments postmarked by February 23, 2015 will become part of the official public record.

Public Meeting: An informational presentation will be followed by an informal question and answer session. Informational posters will be on display, and representatives from GSA and DOS will be available to explain the proposed project, answer questions, and receive comments from the public.

Comment forms will be available for the public to provide formal written comments.

Dated: December 24, 2014.

Myles Vaughan,

NEPA Program Manager, Facilities Management & Services Programs Division, U.S. GSA, Mid-Atlantic Region.

[FR Doc. 2014–30791 Filed 1–8–15; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2015–0001]

Proposed Revised Vaccine Information Materials for Multiple Pediatric Vaccines (''Your Baby's First Vaccines'')

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) develops vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. HHS/CDC seeks written comment on the proposed updated vaccine information statement for multiple pediatric vaccines.

DATES: Written comments must be received on or before March 10, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0001, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Written comments should be addressed to Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and docket number. All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Skip Wolfe (*crw4@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.* Copies of the Vaccine Information Statements are found in the docket at *www.regulations.gov* (Docket CDC–2015–0001) under ''Supporting and Related Materials.''

HHS/CDC is proposing an updated version of the multiple pediatric vaccines (''Your Baby's First Vaccines'') vaccine information statement.

The vaccine information materials referenced in this notice are being developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and health care provider groups.

We invite written comment on the proposed vaccine information material entitled ''Your Baby's First Vaccines: What You Need to Know.'' A copy of the proposed vaccine information statement is available at *www.regulations.gov* (see Docket ID CDC–2015–0001). Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their mandatory use.

Dated: January 5, 2015.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2015–00171 Filed 1–8–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 79 FR 21760–21763, dated April 17, 2014) is amended to reflect the reorganization of the Office of Safety, Security and Asset Management.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete items (1), (2) and (3) of the functional statement for the *Office of Operations (CAJ13), Office of the*

Director (CAJS1), Office of the Safety, Security and Asset Management (CAJS), and renumber the remaining items accordingly.

Delete item (7) of the functional statement for the *Physical Security Laboratory and Technical Branch (CAJSEB), Security Services Office (CAJSE), Office of the Safety, Security and Asset Management (CAJS),* and renumber remaining items accordingly.

Delete item (11) of the functional statement for the *Physical Security Operations Branch (CAJSEC), Security Services Office (CAJSE), Office of the Safety, Security and Asset Management (CAJS),* and renumber remaining items accordingly.

After the mission statement for the *Security Services Office (CAJSE),* insert the following:

Internal Emergency Management Branch (CAJSEE). To lead a comprehensive internal emergency management program that efficiently coordinates CDC resources to, first and foremost, protect lives, then to safeguard the environment and property through mitigation, preparedness training, response, continuity and recovery from all natural, man-made and technological hazards that may impact CDC facilities: (1) Implements, maintains, and updates CDC's Occupant Emergency Plan/Program (OEP); (2) conducts and evaluates annual tabletop, functional, and full-scale exercises for all CDC facilities with Designated Officials and Occupant Emergency Organizations (OEO); (3) recommends future emergency management and emergency response-related programs, policies, and/or procedures; (4) provides leadership and coordination in planning and implementation for internal emergencies; and (5) provides leadership and coordination in planning and implementation for internal emergency incidents affecting the CDC facilities, including incident response and support.

James D. Seligman,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2015–00146 Filed 1–8–15; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 79 FR 32739–32740, dated June 7, 2014) is amended to reflect the reorganization of the Global Immunization Division within the Center for Global Health.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and the mission and function statements for the *Global Immunization Division (CWK)* and insert the following:

Global Immunization Division (CWK). The Global Immunization Division (GID) protects the health of Americans and global citizens by preventing disease, disability, and death worldwide from vaccine-preventable diseases. In carrying out its mission, GID: (1) Provides national leadership and coordination of the Center for Global Health (CGH) efforts to eradicate polio; eliminate measles and rubella in World Health Organization (WHO) regions; strengthens global surveillance to prevent, detect, and respond to vaccine preventable diseases; strengthens routine immunization programs; introduces new and under-utilized vaccines; and promotes safe injection practices in collaboration with international organizations and CDC Centers/Institute/Offices (CIOs); (2) provides technical expertise to global partners—WHO, United Nations International Children's Emergency Fund (UNICEF), Global Alliance for Vaccine Immunization (GAVI), and the Bill and Melinda Gates Foundation (BMGF)—involved in global immunization activities and participates in international advisory group meetings on immunization issues; (3) ensures provision of technical expertise on evidence-based research, strategies, and policy at global and country levels in collaboration with multilateral and bilateral partners; (4) collaborates with other countries and administers grants to WHO, Pan American Health Organization (PAHO), UNICEF, and other international partners and advocacy groups as appropriate for the provision of technical, programmatic, and laboratory support, and vaccine procurement for initiatives to support global immunization targets; (5) improves surveillance for polio, measles, rubella, and other vaccine preventable diseases by working with individual countries and the WHO regional offices to improve surveillance and to collaborate with groups within and outside CDC to expand environmental surveillance; (6) achieves global immunization targets by supporting the strengthening of the implementation of national immunization policies; (7) strengthens appropriate vaccination policy development and implementation, identifies barriers to vaccine acceptance, and develops communication strategies to promote vaccine uptake and disease reduction; (8) develops strategies to improve the technical skills and problem-solving abilities of program managers and health care workers in other countries; (9) prepares immunization articles based on findings for publication in international professional journals and for presentation at international conferences; and (10) provides technical and operational leadership for CDC's activities in support of the initiatives.

Office of the Director (CWK1). (1) Provides leadership, management, and oversight for all division activities including administrative, budget, finance, research, workforce development, management and operations; (2) assists leadership in the formulation and defense of GID budget requests, and monitors and seeks strategies to mitigate division risks; (3) provides coordination and oversight of the division's personnel actions including liaison with CGH and CDC's human resource office; (4) provides oversight for workforce planning, recruitment, deployment, field staff support, professional development, and monitoring and evaluation; (5) develops and promotes partnerships with other organizations to support global immunization activities and works closely with partners in academia; (6) liaises and coordinates with other CDC offices engaged in global immunization activities; (7) provides leadership and oversight for scientific and programmatic activities related to the implementation of GID's objectives and ensures that the research and economic portfolios are integrated across the branches and with field activities; (8) identifies program policy priorities through strategic planning and other processes as appropriate; (9) clears all scientific publications from the division working in close collaboration with management of GID; (10) provides coordination of the division's communications activities including liaison with other CDC communications offices and those of our partner agencies; (11) represents CDC, CGH, and the division at global and national meetings and other fora for global immunization activities; (12) provides

oversight for all Embassy/International Cooperative Administrative Supportive Services costs for the division's field staff; and (13) works in close collaboration and interfaces with CGH and other CIOs, global immunization partners, and other collaborating partners in matters relating to program development and research.

Polio Eradication Branch (CWKB). (1) Achieves global polio eradication in partnership with the Global Polio Eradication Initiative (GPEI) and optimize polio investments toward future health goals; (2) acts as CDC's lead for polio eradication activities in countries within Africa in partnership with GPEI; (3) works with polio free regions to strengthen their efforts to remain polio-free, particularly in the areas of surveillance, outbreak preparedness, containment and legacy planning; (4) improves surveillance for polio by working with individual countries, WHO regional offices, and groups within and outside CDC to expand environmental surveillance; (5) is prepared to respond quickly to outbreaks of wild poliovirus and circulating vaccine-derived polioviruses; (6) leads work in countries at high risk for polio; (7) leads activities to achieve poliovirus containment by the required deadlines; (8) oversees technical aspects of specific polio activities funded by CDC; (9) prepares countries for certification; (10) leads or collaborates in research to support polio eradication goals; (11) identifies opportunities to leverage polio eradication assets to promote sustainable improvements in routine immunization systems, in collaboration with the Immunization Systems Branch; (12) defines and ensures a sustainability legacy for the polio eradication program in addition to polio eradication itself and identifies opportunities to implement strategies toward this goal; (13) coordinates with key partners within and outside CDC; (14) promotes the National Stop Transmission of Polio (NSTOP)program; (15) develops priorities for CDC's involvement in polio eradication research and innovation activities; (16) collects and analyzes data on wild polio virus and vaccine perceived polio virus incidence, surveillance performance and immunization status based on acute flaccid paralysis surveillance and supplemental immunization activities implementation quality; (17) provides support to regional and country teams in assessing risk of outbreaks of wild poliovirus and circulating vaccine-derived polioviruses; responding to outbreaks; planning and implementing mitigating activities to prevent outbreaks; improving surveillance; and assisting in development of documentation to support certification and containment; and (18) supports the completion of global polio eradication through strengthening surveillance, innovation and research.

Accelerated Disease Control and Vaccine Preventable Diseases Surveillance Branch (CWKC). (1) Achieves accelerated disease control goals for vaccine preventable diseases (VPD), with a high focus on eliminating measles and rubella in WHO regions in partnership with the Measles and Rubella Initiative (MRI), and strengthening global surveillance to prevent, detect and respond to VPDs; (2) leads global and regional measles elimination goals; (3) provides expert technical input toward development, evaluation, and improvement of program activities and strategies to mitigate risk and achieve global and regional measles elimination goals; (4) monitors measles incidence and risk through development and analysis of high quality surveillance data and risk estimates, estimating burden of disease/death and verifying elimination; (5) develops and maintains outbreak preparedness and respond rapidly to outbreaks; (6) oversees the technical aspects of measles activities funded by CDC; (7) leads global and regional rubella control and elimination goals; (8) provides expert technical input to countries on the development and implementation of national plans of action for rubella vaccine introduction and the control and elimination of rubella and congenital rubella syndrome; (9) leads activities of the MRI, including participation on working groups, as appropriate; (10) strengthens labs and lab networks to ensure appropriate and timely specimen collection, testing, and result dissemination; (11) develops and maintains outbreak control strategies, including developing mathematical models to estimate the target age range for achieving program goals; (12) provides technical support to reach global or regional goals for control of targeted VPDs; (13) provides expert technical input towards development, evaluation, and improvement of program activities and strategies to mitigate risk and achieve global and regional VDP control goals; (14) monitors prevalence, incidence and risk through development and analysis of high quality surveillance data and risk estimates, estimating burden of disease/death and verifying elimination; (15) conducts research and evaluation to maximize the cost-effectiveness of elimination and outbreak control strategies; (16) oversees the technical aspects of targeted VPD activities funded by CDC; (17) provides ongoing support for development, implementation, quality, and use of VPD surveillance; (18) evaluates VPD surveillance systems and improves the quality, analysis, and use of surveillance data for program action and decision-making; (19) provides technical assistance in establishing and maintaining surveillance for diseases prevented by new or underutilized vaccines; (20) conducts research and evaluation to maximize surveillance performance and cost-effectiveness; and (21) leads innovative research and development to strengthen surveillance and improve laboratory diagnosis.

Immunization Systems Branch (CWKD). (1) Achieves global immunization targets by supporting the strengthening of the implementation of national immunization policies; identifies strategies to increase vaccine demand; promotes the appropriate introduction and use of quality vaccines; and strengthens routine immunization program delivery and equitable access to vaccines, while promoting synergies through the child health agenda; (2) leads development and implementation of effective communication strategies that address issues related to vaccine demand and uptake; (3) identifies caregiver, provider, and community determinants that affect vaccine demand, in order to develop evidence-based strategies to remove barriers and increase demand for immunization; (4) evaluates vaccine policy development, implementation, and impact, and advocates for policies demonstrated to support acceptance of vaccine; (5) accelerates progress toward achieving the millennium development goals of mortality reduction and disease prevention by advocating and promoting the appropriate and equitable introduction of new and underutilized vaccines; (6) builds evidence and rationale for vaccine introduction; (7) secures WHO-prequalification; (8) provides technical and programmatic assistance to countries to introduce new and underutilized vaccines into their national immunization programs; (9) evaluates effectiveness of introduction of new and underutilized vaccines in terms of uptake, impact on existing immunization program function, and potential impact on disease burden; (10) works with VPD Surveillance Team and CDC subject matter experts to build country capacity for future introduction of new and underutilized vaccines; (11)

leads inactive polio virus introduction to immunization systems in oral polio virus using countries as mandated through the Immunization Management Group of the Global Polio Eradication Initiative; improves routine immunization systems globally (or improves access to and utilization of vaccines globally through strengthening of routine immunization systems); (12) develops, evaluates, and scales-up evidence-based strategies to tackle inequities in access to and delivery of vaccines; (13) develops evaluates, and scales-up comprehensive and coordinated approaches to integrate immunization services; (14) promotes innovation to improve routine immunization program efficiencies and increase coverage and impact; (15) conducts advocacy to national programs on the need to strengthen immunization system abilities to monitor, assess and respond to issues related to vaccine safety; and (16) conducts operational research to identify and test interventions to improve the access and utilization of immunization services and provide guidance on what areas are in need of workforce capacity building activities.

Strategic Information and Workforce Development Branch (CWKE). (1) Builds workforce, systems, and information capacity to effectively deliver immunization services in selected countries; (2) provides technical assistance and support, guidance, and advice on statistical analysis and study design, data management, and data integrity to the GID; (3) provides statistical expertise to support internal data management needs of the division and field staff (standard setting for record keeping, archiving, ensuring reproducibility of analyses); (4) collaborates with branch and team level leadership and GID management to ensure that statistical and methodological standards continue to remain an integral part of planning, conduct, and review of science and program within GID including with the context of the official clearance process; (5) provides GID statistical representation on internal and external committees and work groups and at relevant meetings, workshops, and fora; (6) promotes capacity building for polio, other VPDs and immunization functions in partnership with WHO and UNICEF through recruiting, coordinating training of, and deploying STOP teams; (7) promotes capacity building for polio, other VPDs and immunization functions in partnership with WHO and UNICEF; (8) leads the development of strong national immunization programs and systems through workforce capacity development; (9) ensures recruitment for training and WHO deployment for each STOP team; (10) creates and maintains strategic partnerships and collaborations and provides technical assistance to develop and evaluate sustainable programs aimed at increasing capacity and effectiveness of workforce responsible for implementing immunization programs; (11) conducts operational research to identify, implement and evaluate interventions aimed at improving immunization (or integrated public health) workforce effectiveness and contributes to the scientific knowledge base regarding interventions aimed at improving immunization workforce effectiveness; (12) leads strengthening routine immunization systems as mandated through the Immunization Management Group of the Global Polio Eradication Initiative; and (13) leads the development of strong immunization systems through improving quality, management, and use of immunization data and providing specific technical skills for program evaluation to include strategic information, informatics and information systems, program evaluation, polio eradication and endgame strategy, and operational research.

James D. Seligman,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2015–00145 Filed 1–8–15; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10249 and CMS–10545]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by March 10, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement

and associated materials (see **ADDRESSES**).

CMS–10249 Administrative Requirements for Section 6071 of the Deficit Reduction Act

CMS–10545 Outcome and Assessment Information Set (OASIS) OASIS–C1/ICD–10

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. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Administrative Requirements for Section 6071 of the Deficit Reduction Act; *Use:* State Operational Protocols should provide enough information such that: The CMS Project Officer and other federal officials may use it to understand the operation of the demonstration and/or prepare for potential site visits without needing additional information; the State Project Director can use it as the manual for program implementation; and external stakeholders may use it to understand the operation of the demonstration. The financial information collection is used in our financial statements and shared with the auditors who validate CMS' financial position. The Money Follows the Person Rebalancing Demonstration (MFP) Finders File, MFP Program Participation Data file, and MFP Services File are used by the national evaluation contractor to assess program outcomes while we use the information to monitor program implementation. The MFP Quality of Life data is used by the national evaluation contractor to assess program outcomes. The evaluation is used to determine how participants' quality of life changes after transitioning to the community. The semi-annual progress report is used by the national evaluation contractor and CMS to monitor program implementation at the grantee level. *Form Number:* CMS–10249 (OMB control number: 0938–1053); *Frequency:* Yearly, quarterly, and semi-annually; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 45; *Total Annual Responses:* 28,590; *Total Annual Hours:* 14,225. (For policy questions regarding this collection contact Michael Smith at 410–786–2267.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Outcome and Assessment Information Set (OASIS) OASIS–C1/ICD–10; *Use:* Home health agencies (HHAs) are required to collect the outcome and assessment information data set (OASIS) to participate in the Medicare program. We are requesting a new OMB control number for the proposed revised OASIS item set, referred to hereafter as OASIS–C1/ICD–10. The current version of the OASIS–C1/ICD–9 data set was approved by OMB on October 7, 2014 (0938–0760), and will be in use until the implementation of the ICD–10 coding system which is currently scheduled for October 1, 2015. *Form Number:* CMS–10545 (OMB control number: 0938—NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 12,014; *Total Annual Responses:* 17,268,890; *Total Annual Hours:* 15,320,253. (For policy questions regarding this collection contact Cheryl Wiseman at 410–786–1175.)

Dated: January 6, 2015.

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–00175 Filed 1–8–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Formative Data Collections for Policy Research.

OMB No.: 0970–0356.

Description: The Office of Planning, Research and Evaluation (OPRE), in the Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) intends to request approval from the Office of Management and Budget (OMB) for renewal of a generic clearance to allow OPRE to conduct a variety of formative data collections with more than nine respondents. The data collections will inform future research and evaluation but will not be highly systematic nor intended to be statistically representative.

OPRE conducts research on a wide variety of policy and programmatic areas. OPRE's research serves to provide further understanding of current programs and service populations, explore options for program improvement, and assess alternative policy and program designs. OPRE uses this formative data collection generic clearance to employ a variety of information collection techniques, including semi-structured discussions, focus groups and interviews. These activities inform the development of OPRE research and evaluation (including technical assistance), help OPRE maintain a research agenda that is rigorous and relevant, and ensure that research products and are as current as possible.

Following standard OMB requirements, OPRE will submit a change request for each individual data collection activity under this generic clearance. Each request will include the individual instrument(s), a justification specific to the individual information collection, and any supplementary documents. OPRE requests OMB review within 10 days of receiving each change request.

Respondents: Researchers, practitioners, TA providers, service providers and potential participants throughout the fields pertaining to ACF research.

BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Semi-Structured Discussion and Information-Gathering Protocols	1,600	1	1	1,600

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance Officer.

[FR Doc. 2015–00179 Filed 1–8–15; 8:45 am]

BILLING CODE 4184–79–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Pre-testing of Evaluation Surveys.

OMB No.: 0970–0355.

Description: The Office of Planning, Research and Evaluation (OPRE), in the Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) intends to request approval from the Office of Management and Budget (OMB) for renewal of a generic clearance to allow OPRE to pre-test data collection instruments with more than nine participants to identify and resolve any question or procedural problems in survey administration.

OPRE studies ACF programs, and the populations they serve, through rigorous research and evaluation projects. These include evaluations of existing programs, evaluations of innovative approaches to helping low-income children and families, research syntheses and descriptive and exploratory studies. To improve the development of its research and evaluation surveys, OPRE uses the pre-testing of evaluation surveys generic clearance to employ a variety of techniques including cognitive and usability laboratory and field techniques, behavior coding, exploratory interviews, respondent debriefing questionnaires, split sample experiments, focus groups, and pilot studies/pre-tests. These activities allow OPRE to identify if and when a survey may be simplified for respondents, respondent burden may be reduced, and other possible improvements.

Following standard OMB requirements, OPRE will submit a change request for each individual data collection activity under this generic clearance. Each request will include the individual instrument(s), a justification specific to the individual information collection, and any supplementary documents. OPRE requests OMB review within 10 days of receiving each change request.

Respondents: Participants in ACF programs being evaluated; participants in ACF demonstrations; comparison group members; and other relevant populations, such as individuals at risk of needing ACF services.

BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Survey development field tests, respondent debriefing questionnaires, cognitive interviews, split sample experiments, focus groups	5,100	1	.75	3,825

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance Officer.

[FR Doc. 2015–00180 Filed 1–8–15; 8:45 am]

BILLING CODE 4184–79–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2347]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Cosmetic Export Certificate Application Process

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice invites comments on the information collection provisions associated with export certificate applications for FDA regulated food and cosmetic products.

DATES: Submit either electronic or written comments on the collection of information by March 10, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food and Cosmetic Export Certificate Application Process (21 U.S.C. 381(e)) (OMB Control Number 0910–NEW)

Some foreign countries require manufacturers of FDA regulated products to provide an export certificate for the products they wish to export to that country. A Certificate of Free Sale is a certificate (not pertaining to a particular production lot or export consignment) that indicates that the particular product is marketed in the United States or eligible for export, and that the particular manufacturer has no unresolved enforcement actions pending before or taken by FDA. FDA's Center for Food Safety and Applied Nutrition (CFSAN) issues such certificates for food, food additives, seafood, dietary supplements, and cosmetics. Interested persons may request a certificate by using the electronic CFSAN Certificate Application Process, which is part of FDA Unified Registration and Listing System, or by submitting a paper Form FDA 3613d for cosmetic products or a paper Form FDA 3613e for food products. We use the information submitted to determine whether to issue the requested certificate.

OMB has approved the submission of requests for export certificates on paper Forms FDA 3613d and FDA 3613e and, electronically, via the CFSAN Certificate Application Process under OMB control number 0910–0498. This notice announces that, to ensure the efficient review of the information collection by OMB under the PRA, we are seeking to obtain a new OMB control number for Forms FDA 3613d and FDA 3613e and the CFSAN Certificate Application Process to reflect that the electronic submission system for food and cosmetic export certificates is separate from the electronic submission system associated with export certificates for other FDA regulated products approved under OMB control number 0910–0498. Upon OMB approval of this information collection request, we will adjust the burden hours associated with Forms FDA 3613d and FDA 3613e and the CFSAN Certificate Application Process approved under OMB control number 0910–0498.

We request the following information on Form FDA 3613d and the CFSAN Certificate Application Process, as currently approved by OMB: The name of and contact information for the requester; the name of and contact information for the exporting company (if different from requester); a designation of the type of certificate requested (''general'' or ''product-specific''); if product-specific, a list of the exact brand names of the products; the contact person, company name and address where the requested certificate should be sent; and, the name and account number (if applicable) of the requester's preferred carrier for delivery of the certificate. Finally, Form FDA 3613d and the CFSAN Certificate Application Process requires the requester's signature, the name and title of the person signing the form, as well as the date signed.

We request the following information on Form FDA 3613e and the CFSAN Certificate Application Process, as currently approved by OMB: The name of and contact information for the manufacturer, as well as the manufacturer's state license or registration number; the name of and contact information for the exporting company (if different from manufacturer), as well as the exporting company's state license or registration number; a description of the shipment including the product, the common name, the manufacturer, and a description or additional comments; the name of the country to which the requester of the certificate intends to ship the product; the contact person, firm name and address where the requested certificate should be sent; and, the name and account number (if applicable) of the requester's preferred carrier for delivery of the certificate. Form FDA 3613e and the CFSAN Certificate Application Process requires the requestor to submit an original or copy of the applicable product label or labels. Finally, Form FDA 3613e and the CFSAN Certificate Application Process

requires the submitter's signature, the name and title of the person signing the form, as well as the date signed.

Description of Respondents: The respondents to this collection of information are firms interested in exporting U.S.-manufactured food and cosmetic products to foreign countries that require export certificates.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	FDA form number [2]	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cosmetics	3613d	600	1	600	1.5	900
Conventional Food (Including Seafood)	3613e	398	1	398	1.5	597
Dietary Supplements, Food for Special Dietary Use, Infant Formula, and Medical Foods	3613e	2,129	4	2,129	1.5	3,194
Food Additives and Food Contact Substances	3613e	167	1	167	1.5	251
Total						4,942

[1] There are no operating and maintenance costs associated with this collection of information.
[2] Form FDA 3613d and Form FDA 3613e may be submitted electronically via the Certificate Application Process.

For the purpose of this information collection request, we are basing our estimate of the average burden per response in column 6 of Table 1 on the estimates previously submitted to and approved by OMB under control number 0910–0498. Our estimate of the average burden per response in column 6 of Table 1 varies according to the product category for which the certificate is requested. We base our estimates of the total annual responses in column 5 of Table 1 on our experience with certificate applications received in the past 2 fiscal years. Some respondents send in requests as often as three or four times a month while others may submit only periodic requests.

We expect that most if not all firms requesting export certificates in the next 3 years will choose to take advantage of the option of electronic submission via the CFSAN Certificate Application Process. Thus, our burden estimates in Table 1 are based on the expectation of 100 percent participation in the electronic submission process. The opportunity to provide the information in electronic format could reduce the Agency's previous estimates for the time to prepare each submission. However, as a conservative approach for the purpose of this analysis, we are assuming that the opportunity to submit the information in electronic format will have no effect on the average time to prepare a submission.

Dated: January 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00130 Filed 1–8–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2258]

Determination That TAGAMET (Cimetidine) Tablets and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Amy Hopkins, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6223, Silver Spring, MD 20993–0002, 301–796–5418, *Amy.Hopkins@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed. (As requested by the applicants, FDA withdrew approval of NDA 017920 for TAGAMET (cimetidine) Tablets in the **Federal Register** of June 8, 2011 (76 FR 33310), and NDA 018709 for CAPOZIDE (captopril and hydrochlorothiazide) Tablets in the **Federal Register** of March 19, 2012 (77 FR 16039).)

Application No.	Drug	Applicant
NDA 017920	TAGAMET (cimetidine) Tablet; Oral, 200 milligram (mg); 300 mg; 400 mg; 800 mg.	GlaxoSmithKline, 5 Moore Dr., P.O. Box 13398, Research Triangle Park, NC 27709.
NDA 018155	OPTICROM (cromolyn sodium) Solution/Drops; Ophthalmic, 4%.	Allergan Inc., 2525 Dupont Dr., Irvine, CA 92623.
NDA 018709	CAPOZIDE (captopril and hydrochlorothiazide) Tablet; Oral, 25 mg/15 mg; 25 mg/25 mg; 50 mg/15 mg; 50 mg/25 mg.	Apothecon Inc., P.O. Box 4500, Princeton, NJ 08543.
NDA 018976	LEVATOL (penbutolol sulfate) Tablet; Oral, 10 mg; 20 mg	Auxilium Pharmaceuticals LLC, 640 Lee Rd., Chesterbrook, PA 19087.
NDA 019958	CUTIVATE (fluticasone propionate) Cream; Topical, 0.05% ..	Fougera Pharmaceuticals Inc., 1 Health Plaza, Bldg. 434, East Hanover, NJ 07936.
NDA 020713	MIRCETTE (desogestrel and ethinyl estradiol, and ethinyl estradiol) Tablet; Oral-28, 0.15 mg/0.02 mg; 0.01 mg.	Teva Pharmaceutical Products Inc., 41 Moores Rd, P.O. Box 4011, Frazer, PA 19355.
NDA 021410	AVANDAMET (metformin hydrochloride (HCl) and rosiglitazone maleate) Tablet; Oral, 500 mg/Equivalent to 1 mg Base.	SmithKline Beecham Cork Ltd., Ireland, 2301 Renaissance Blvd., MC RN 0420, King of Prussia, PA 19406.
NDA 021571	IQUIX (levofloxacin) Solution/Drops; Ophthalmic, 1.5%	Santen Inc., 555 Gateway Dr., Napa, CA 94558.
NDA 021726	NIRAVAM (alprazolam) Orally Disintegrating Tablets; Oral, 0.25 mg; 0.5 mg; 1 mg; 2 mg.	UCB Inc., 1950 Lake Park Dr., Smyrna, GA 30080.
NDA 021768	FLUDEOXYGLUCLOSE F–18 Injectable; Intravenous 10–100 millicuries/milliliter.	Weill Medical College Cornell University, 516 East 72nd St., New York, NY 10065.
ANDA 076699	PARCOPA (carbidopa and levodopa) Orally Disintegrating Tablets; Oral, 10 mg/100 mg; 25 mg/100 mg; 25 mg/250 mg.	UCB Inc., 1950 Lake Park Dr., Smyrna, GA 30080.
ANDA 080248	ALBALON (naphazoline HCl) Solution/Drops; Ophthalmic, 0.1%.	Allergan Inc., 2525 Dupont Dr., Irvine, CA 92623.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: January 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00116 Filed 1–8–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1021]

Medical Device User Fee and Modernization Act; Notice to Public of Web Site Location of Fiscal Year 2015 Proposed Guidance Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the Web site location where the Agency will post two lists of guidance documents that the Center for Devices and Radiological Health (CDRH or the Center) is intending to publish in Fiscal Year (FY) 2015. In addition, FDA has established a docket, identified in brackets in the heading of this document, where stakeholders may comment on the priority of topics for guidance, provide comments and/or propose draft language for those topics, suggest topics for new or different guidance documents, and comment on the applicability of guidance documents that have issued previously.

DATES: You may submit either electronic or written comments at any time. FDA would appreciate if stakeholders provide feedback by March 10, 2015.

ADDRESSES: Submit electronic comments on the proposed guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paul Gadiock, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5452, Silver Spring, MD 20993–0002, 301–796–5736.

SUPPLEMENTARY INFORMATION:

I. Background

During negotiations over the Medical Device User Fee Amendments of 2012 (MDUFA III), title II, Food and Drug Administration Safety and Innovation Act (Pub. L. 112–114), FDA agreed, in return for additional funding from industry, to meet a variety of quantitative and qualitative goals intended to help get safe and effective medical devices to market more quickly. These commitments included:

- Annually posting a list of priority medical device guidance documents that the Agency intends to publish within 12 months of the date this list is published each fiscal year (the ''A-list'') and

• annually posting a list of device guidance documents that the Agency intends to publish, as the Agency's guidance-development resources permit each fiscal year (the ''B-list'').

FDA invites interested persons to submit comments on any or all of the guidance documents on the lists as explained in 21 CFR 10.115(f)(5). FDA has established the docket number (FDA–2012–N–1021) where comments on the FY 2015 lists, draft language for guidance documents on those topics, suggestions for new or different guidances, and relative priority of guidance documents may be submitted (see **ADDRESSES**). FDA believes this docket is an important tool for receiving information from interested parties and for sharing this information with the public. FDA anticipates that feedback from stakeholders, including draft language for guidance documents, will allow CDRH to better prioritize and more efficiently draft guidances that will be useful to industry and other stakeholders. FDA intends to update these lists each year.

Similar information about planned guidance development is included in the annual Agency-wide notice issued under its good guidance practices (GGPs) (§ 10.115(f)(5)). The CDRH lists, however, are focused exclusively on device-related guidances and will be made available on FDA's Web site at the beginning of each fiscal year from 2013 to 2017.

In addition to posting the lists of prioritized device guidance documents, FDA has committed to updating its Web site in a timely manner to reflect the Agency's review of previously published guidance documents, including the deletion of guidance documents that no longer represent the Agency's interpretation of, or policy on, a regulatory issue, and notation of guidance documents that are under review by the Agency.

Fulfillment of these commitments will be reflected through the issuance of updated guidance on existing topics, removal of guidances that that no longer reflect FDA's current thinking on a particular topic, and annual updates to the A-list and B-list announced in this notice.

II. Guidance Development Process Workshop

On June 5, 2014, CDRH held a public workshop to provide stakeholders an opportunity to actively engage with Center representatives about the guidance development process, provide transparency into guidance priority development, promote dialogue on guidance process improvements, and generate ideas for assessing the impact of guidance (*http://www.fda.gov/medicaldevices/newsevents/workshopsconferences/ucm394821.htm*). The workshop also provided a forum to discuss best practices in guidance development, including public participation in guidance development. CDRH carefully considered the comments and suggestions provided by stakeholders. The following is a summary of the issues discussed at the workshop, actions the Center has taken to date in response to the discussions, and plans for implementation.

A. Draft Guidance Documents

A concern raised by external stakeholders was CDRH's use of recommendations contained in draft guidance documents to make regulatory and enforcement decisions before the recommendations were established through issuance of a final guidance document. CDRH reaffirmed that the Center's policy has always been consistent with the Agency's GGPs, which state that a draft guidance document is issued for public comment purposes only and may not be implemented until finalized (§ 10.115(g)). However, CDRH agreed additional steps should be taken.

Stakeholders requested that draft guidance documents be more clearly identified as ''draft'' to indicate to CDRH stakeholders and staff that they are not for implementation. CDRH revised its templates for new draft guidance documents by adding the watermark ''DRAFT'' to all pages in order to more conspicuously mark the guidance as not for implementation. CDRH implemented the use of the new templates effective August 6, 2014. CDRH also added the watermark ''DRAFT'' to draft guidance documents issued prior to August 6, 2014.

Stakeholders also recommended that CDRH's guidance documents Web page (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*) list draft guidances separately from those that had been finalized, which would enhance searchability. CDRH revised its guidance document Web page to include a new left navigation item for ''Draft Guidance.'' In addition, CDRH removed draft guidance documents from the office guidance document lists and separated the link to ''Recent Medical Device Guidance Documents'' into two separate links: ''Recent Medical Device Final Guidance Documents'' and ''Recent Medical Device Draft Guidance Documents.''

CDRH is aware there are some draft guidance documents that have not yet been finalized. In order to assure the timely completion or reissuance of draft guidances, CDRH is committing to performance goals for current and future draft guidance documents. For draft guidance documents issued after October 1, 2014, CDRH will finalize, withdraw, reopen the comment period, or issue another draft guidance on the topic for 80 percent of the documents within 3 years of the close of the comment period. For draft guidances for which CDRH does not take action within the initial 3 years, CDRH will finalize, withdraw, reopen the comment period, or issue another draft guidance on the topic within 5 years. In addition, in FY 2015, CDRH will finalize, withdraw, or reopen the comment period for 50 percent of existing draft guidances issued prior to October 1, 2009. CDRH expects to renew or modify, as appropriate, these performance goals in FY 2016 and subsequent years.

B. Earlier Stakeholder Involvement

CDRH representatives discussed various ways in which the Center currently encourages participation by external stakeholders in the guidance development process. In addition to those described in the Background section, recently the Center has taken some new approaches to developing guidance documents. CDRH has held public workshops and panel meetings to solicit stakeholder feedback on both device-specific and policy-related issues. For example, this model was utilized for the development of the Design Considerations for Devices intended for Home Use Guidance (*http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM331681.pdf*) prior to the draft guidance's issuance. However, because the resource implications for public meetings or workshops and panel meetings are very high, CDRH can only use these venues in limited cases. CDRH must judiciously balance various approaches to guidance development with meeting quantitative review timelines and other statutory obligations.

In the case of emerging technologies, CDRH is using ''leapfrog'' guidances to provide initial recommendations regarding the type of information that would be appropriate in the review of emerging technologies. Information from external stakeholders helps CDRH formulate its initial thinking on the data necessary to support marketing approval or clearance of these devices.

In anticipation of guidances that are expected to be developed, CDRH is posing the following questions to stakeholders for consideration and comment so that relevant future draft guidances on these technologies can be as complete and useful as possible. CDRH believes that stakeholder input at this stage and again after a draft guidance is issued on the topic will lead to a comprehensive and informed final guidance on the Agency's policy for the technologies and processes listed below:

1. Patient Matched Instrumentation for Orthopedics

These devices are patient-specific instrumentation, created from patient imaging scans with the use of segmentation and planning software, to affect a surgeon's surgical plan intraoperatively. A guidance document addressing the basic elements to be addressed in a 510(k) submission for patient matched instrumentation for all joint replacement product areas will help provide transparency to industry as to the level and types of information requested for review of these devices.

- What methods are used to determine that all phases of the design process, including those that rely on execution by a trained employee and/or by software, function as intended? How is variability controlled across planning personnel and across different patient pathologies?
- What impact does preoperative planning of the surgical procedure to create a guide have on implant performance? What parameters are critical to creating an effective preoperative plan with respect to device performance? Please provide a justification for your response.
- How extensive is the interaction among the approving surgeon and the planning personnel when developing and approving a preoperative plan?
- When the manufacturers of patient-matched instruments do not manufacture the implant system or have a formal business agreement with the implant manufacturer, what information requires monitoring to ensure that modifications to the implant system or implantation recommendations do not affect the performance of the patient-matched instrumentation?

2. Medical Devices Intended for Aesthetic Use

As the U.S. population continues to age, use of medical devices for aesthetic purposes is expanding. Given the absence of generally accepted metrics for selecting patients and evaluating medical device performance for aesthetic uses, there are many challenges in collecting and interpreting clinical data that might support clearance or approval of aesthetic-use devices. Another difficulty in such studies is understanding patients' perspectives on product safety and effectiveness, which are important in defining the benefit/risk ratio for any new treatment. A guidance document on this topic would address development and validation of methods for quantitative measure of aesthetic improvement with minimal bias.

Objective measures of device effectiveness can be difficult to develop and validate for endpoints involving aesthetic outcomes. However, tools to measure device effectiveness in an objective manner are needed in order to reduce bias in interpretation of study results.

- Do the use of validated scales that depict varying degrees of change in body features (*e.g.,* wrinkle severity, mid-face volume) result in clinically meaningful assessment of product effectiveness? Under what circumstances would the use of a validated scale not be clinically meaningful?
- How can gender or ethnicity-specific tools be developed in order to gather clinically meaningful assessment of product effectiveness?
- To what extent should emphasis be placed on the use of validated patient-reported outcome measures in order to demonstrate product effectiveness? Should assessment of the primary endpoint using a validated patient reported outcome measure be routine?
- Can photography methods find utility in assessment of product effectiveness and be comparable to live assessment when evaluating three-dimensional changes in tissue volume? If so, are there such methods in clinical use?
- Is there a role for creative or non-traditional methods (*e.g.,* crowd sourcing, use of social media) in clinically meaningful assessment of product effectiveness? If so, how can this be accomplished?

3. Dual 510(k) and Clinical Laboratory Improvements Amendments (CLIA) Waiver by Application

A Dual 510(k) and CLIA Waiver by Application (''Dual'') is a regulatory submission requesting both 510(k) clearance and CLIA Waiver approval. Under the Dual program, a Dual must be preceded by a presubmission during which the strategy for addressing both regulatory requirements is discussed. After the presubmission, the Dual 510(k) and Waiver by Application are submitted as a single regulatory submission. A guidance document addressing considerations for the design of clinical studies used to support both CLIA Waiver approval and 510(k) clearance will provide transparency on the level and types of information to provide FDA. FDA anticipates this will help focus the Dual presubmissions and potentially shorten the review process for the Dual submission.

- Of what challenges should FDA be aware in drafting this guidance document?

Stakeholders are strongly encouraged to suggest guidance topics as well. In order to support their concept, commenters should state the potential guidance topic, reasons the guidance is needed, and proposed policy for FDA to consider on the topic. See § 10.115(f)(2). Ideally, commenters would develop a comprehensive policy in the form of a proposed guidance document that CDRH could then consider issuing as draft guidance, as explained in § 10.115(f)(2).

C. Applicability of Previously-Issued Final Guidance

CDRH has issued over 1,000 guidance documents to provide stakeholders with the Agency's thinking on numerous topics. Each guidance reflected the Agency's current position at the time that it was issued. However, the guidance program has issued these guidances over a period greater than 20 years, raising the question of how current do previously issued final guidances remain. CDRH has resolved to address this concern through a staged review of previously issued final guidances in collaboration with stakeholders.

At the Web site where CDRH has posted the ''A-list'' and ''B-list'' for FY 2015, CDRH has also posted a list of final guidance documents that issued in 2005, 1995, and 1985.[1] The Center would appreciate external feedback on whether any of these final guidances should be revised or withdrawn. CDRH intends to provide such lists annually through FY 2025 so that by FY 2025, FDA and stakeholders will have assessed the applicability of all guidances older than 10 years. For instance, in the annual notice for FY 2016, CDRH expects to provide a list of the final guidance documents that issued in 2006, 1996, and 1986; the annual notice for FY 2017 is expected

[1] The retrospective list of final guidances does not include: (1) Documents that are not guidances but were inadvertently categorized as guidance such as scientific publications, advisory opinions, and interagency agreements; (2) guidances actively being revised by CDRH; and (3) special controls documents.

to provide a list of the final guidance documents that issued in 2007, 1997, and 1987, and so on. CDRH will consider the information received from this retrospective review when determining priorities for updating guidance documents. Based upon this experience, CDRH will establish a process for ongoing periodic review of final guidance that takes into account the value provided by the review and the resource implications to conduct the review.

Under the GGPs regulation at § 10.115(f)(4), the public may, at any time, suggest that CDRH revise or withdraw an already existing guidance document. The suggestion should address why the guidance document should be revised or withdrawn and, if applicable, how it should be revised. Stakeholders are advised to examine the list or previously issued final guidances provided by CDRH on the annual agenda Web site but feedback on any guidance is appreciated.

III. Web Site Location of Guidance Lists

This notice announces the Web site location of the two lists of guidance documents which CDRH is intending to publish during FY 2015. To access these two lists, visit FDA's Web site at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/ucm321367.htm.* We note that the Agency is not required to publish every guidance on either list if the resources needed would be to the detriment of meeting quantitative review timelines and statutory obligations. The Agency is not precluded from issuing guidance documents that are not on either list.

FDA and CDRH priorities are subject to change at any time. Topics on this and past guidance priority lists may be removed or modified based on current priorities. CDRH's experience in guidance development has shown that there are many reasons that CDRH staff may not complete the entire agenda of guidances it undertakes. Staffs are frequently diverted from guidance development to other priority activities. In addition, at any time new issues may arise to be addressed in guidance that could not have been anticipated at the time the annual list is generated. These may involve newly identified public health issues.

IV. Request for Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: January 2, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00115 Filed 1–8–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism, National Cancer Advisory Board, and National Advisory Council on Drug Abuse.

Open: February 4, 2015.

Time: 9 a.m. to 2 p.m.

Agenda: Presentation of NIAAA, NCI and NIDA Director's Update, Concept Clearance, Scientific Reports, and other topics within the scope of the Collaborative Research on Addiction at NIH (CRAN).

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Rockville, MD 20852.

Contact Person: Abraham P. Bautista, Ph.D., Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 443–9737, *bautista@mail.nih.gov.*

Paulette Gray, Ph.D., Director, Office of Extramural Research, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Rockville, MD 20892, (240) 276–6340, *grayp@dea.nci.nih.gov.*

Mark Swieter, Ph.D., Acting Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Blvd., Room 4243, Rockville, MD 20852, (301) 435–1389, *mswieter@nida.nih.gov.*

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Closed: February 4, 2015.

Time: 2 p.m. to 5:30 p.m.

Agenda: Presentation of BSC intramural evaluation report and review of grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Rockville, MD 20852.

Open: February 5, 2015.

Time: 9 a.m. to 2 p.m.

Agenda: Presentation of NIAAA Director's report, concept clearance, scientific lectures and other topics on alcohol abuse and alcoholism of interest to the public and NIAAA's stakeholders.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Room, Rockville, MD 20852.

Contact Person: Abraham P. Bautista, Ph.D., Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 443–9737, *bautista@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCounci/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: January 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–00119 Filed 1–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

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

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

Name of Committee: Center for Scientific Review Special Emphasis Panel; NHLBI Systems Biology.

Date: January 22–23, 2015.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov*.

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

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section.

Date: February 4, 2015.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Houston Marriott West Loop by the Galleria, 1750 West Loop South, Houston, TX 77027.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.

Date: February 5–6, 2015.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn San Antonio—Riverwalk, 217 N. St Mary's Street, San Antonio, TX 78205.

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov*.

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

Dated: January 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–00118 Filed 1–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute: Notice of Open Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

Date: March 4, 2015.

Time: 9 a.m. to 4 p.m.

Agenda: Strategic Discussion of NCI's Clinical and Translational Research Programs.

Place: National Institutes of Health, Building 31, C–Wing, 6th Floor, Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, National Institutes of Health, National Cancer Institute, 9609 Medical Center Drive, Room 6W136, Rockville, MD 20850, 240–276–6173, *prindivs@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–00117 Filed 1–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

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

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

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: Long-Term Outcomes of Bariatric Surgery Using Large Datasets.

Date: January 29, 2015.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Imaging Technology B Study Section.

Date: February 1–3, 2015.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Contessa on the Riverwalk, 306 West Market Street, San Antonio, TX 78205.

Contact Person: Lee Rosen, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Basic Mechanisms of Cancer Therapeutics Study Section.

Date: February 2–3, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahman-sesayl@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section.

Date: February 2, 2015.

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

Agenda: To review and evaluate grant applications.

Place: Pier 2620 Hotel Fisherman's Wharf, 2620 Jones Street, San Francisco, CA 94133.

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: February 4–5, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington Capital View Hotel, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC 7892, Bethesda, MD 20892, 301–435–1047, *dennis.hlasta@nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Molecular Pathobiology Study Section.

Date: February 5–6, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Manzoor Zarger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Clinical and Integrative Diabetes and Obesity Study Section.

Date: February 5–6, 2015.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

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

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–408–9901, *sheardn@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Imaging Technology A Study Section.

Date: February 5–6, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Behrouz Shabestari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–2409, *shabestb@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: February 5–6, 2015.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: February 9, 2015.

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

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

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

Dated: January 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–00120 Filed 1–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Notice of Availability for the Patient Decontamination in a Mass Chemical Exposure Incident: National Planning Guidance for Communities, Correction

AGENCY: Office of Health Affairs, DHS.

ACTION: Notice of Availability.

SUMMARY: The Office of Health Affairs published a document in the **Federal Register** of December 19, 2014, concerning the public release of a guidance document, Patient Decontamination in a Mass Chemical Exposure Incident: National Planning Guidance for Communities. The document was missing a URL directing readers to the electronic copy of the document.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Kirk, Office of Health Affairs, telephone (202) 254–6729.

Correction

In the **Federal Register** of December 19, 2014, in FR Vol. 79, No. 244, on page 75826, in the third column, correct the Web site to read:

The document is available on the following Web sites: *http://www.dhs.gov/office-health-affairs and http://www.phe.gov/Preparedness/responders/Pages/patientdecon.aspx*

Dated: January 5, 2015.

Mark Kirk,

Director, Chemical Defense Program.

[FR Doc. 2015–00200 Filed 1–8–15; 8:45 am]

BILLING CODE 9110–9K–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–02]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or

call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 22, 2014.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2014–30350 Filed 1–8–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVE03000 L5110000.GN0000LVEMF1301550 241A; NVN–091032; 14–08807; MO# 4500070050]

Notice of Availability of the Final Environmental Impact Statement for the Long Canyon Mine Project, Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (FEIS) for the Long Canyon Mine Project and by this notice is announcing its availability.

DATES: The BLM will not issue a final decision on the proposal for a minimum of 30 days from the date that the Environmental Protection Agency publishes its notice in the **Federal Register**.

ADDRESSES: Copies of the FEIS for the Long Canyon Mine Project are available for public inspection at the BLM Elko District Office. Interested persons may also review the FEIS on the Internet at *www.blm.gov/rv5c.*

FOR FURTHER INFORMATION CONTACT: For further information contact Whitney Wirthlin, Project Manager; telephone: 775–861–6400; address: 1340 Financial Blvd., Reno, NV 89502; email: *BLM_NV_ELDOLongCanyonMine@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Newmont Mining Corporation (Newmont) proposes to construct and operate an open-pit gold mining operation, which would include one open pit, a heap leach pad, one waste rock dump, a tailings storage facility, a natural gas pipeline from the existing Ruby Pipeline, an onsite power generation plant, and other ancillary facilities. The mine would be located on the eastern side of the Pequop Mountain Range, about 30 miles east of Wells, Nevada, and 32 miles west of West Wendover, Nevada, and 5 miles south of Interstate 80. Currently, Fronteer Development (Fronteer), a subsidiary of Newmont, is authorized to disturb up to 115 acres for exploration purposes. The associated disturbance for the proposed operations would increase to 1,631 acres of public land, including 480 acres of split estate lands of Federal surface and private subsurface. The projected life of the mine is 8 to 14 years, including construction, operations, and closure and post-closure monitoring. An estimated annual workforce for operations would be approximately 300 to 500 people during the life of the mine.

Fronteer is currently conducting exploration activities in this area which were analyzed in two environmental assessments (EA), the *NewWest Gold USA Inc. Long Canyon Exploration Project* (July 2008, EA No. BLM/EK/PL–2008/011) and *Fronteer Development (USA) Inc. Expanded Long Canyon Exploration Project* (June 2011, DOI–BLM–NV–N030–2011–00001–EA). The proposed Long Canyon Mine is in conformance with the Wells Resource Management Plan (RMP) and the proposal is in conformance with the approved decisions of the RMP.

The FEIS describes and analyzes the proposed project site-specific impacts (including cumulative) on all affected resources. Two alternatives are analyzed: the North Facilities Alternative and the No Action Alternative. The North Facilities Alternative was designed in response to several environmental issues raised by scoping comments. Under the North Facilities Alternative, most of the mine facilities would be moved to the northern portion of the project area. This alternative addresses impacts to several wildlife species, cultural resources, and responds to requests from the cities of West Wendover, Nevada and Wendover, Utah related to potential impacts to their water supply.

Six other alternatives were considered but eliminated from further analysis. Mitigation measures are considered to minimize environmental impacts and to assure the proposed action does not result in unnecessary or undue degradation of public lands.

The Draft EIS for the Long Canyon Mine Project was published and available for review on March 21, 2014 (79 FR 15773). A 45-day comment period occurred. The BLM received a total of 34 written comment submissions containing 105 individual items during the public comment period on the Draft EIS. The comments the BLM received were submitted by Federal and State agencies as well as members of the general public. Key issues raised during the public comment period include: Potential impacts to water resources utilized by the cities of West Wendover, NV and Wendover, UT, including the Johnson Springs system; potential impacts to visual resources, air quality, cultural resources and the Hastings Cutoff of the California National Historic Trail, the mule deer migration corridor, and wetland and riparian resources; and potential positive impacts to local communities.

The BLM has prepared the Final EIS in conjunction with its eight Cooperating Agencies: Nevada Department of Wildlife, Elko County, City of Elko, City of West Wendover, City of Wendover, Utah; the Confederated Tribes of the Goshute Indian Reservation, the Nevada Division of Environmental Protection, and the Environmental Protection Agency. Comments on the Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the FEIS. Public comments resulted in the addition of clarifying text, but did not significantly change the analysis.

Following a 30-day FEIS availability and review period, a Record of Decision (ROD) will be issued. The decision reached in the ROD is subject to appeal to the Interior Board of Land Appeals. The 30-day appeal period begins with the issuance of the ROD.

Authority: 40 CFR 1506.6; 40 CFR 1506.10.

Bryan K. Fuell,

Field Manager, Wells Field Office.

[FR Doc. 2015–00067 Filed 1–8–15; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02054000, 14XR0680A1, RX021489433320900]

Notice of Public Review and Comment Period Extension for the Draft Environmental Impact Statement for Central Valley Project Municipal and Industrial Water Shortage Policy, Central Valley, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation is extending the public review and comment period for the Central Valley Project Municipal and Industrial Water Shortage Policy Draft Environmental Impact Statement (EIS). The Draft EIS was initially noticed by Reclamation on November 19, 2014 and public comments were originally due on January 12, 2015. In response to public requests, the comment period is being extended until March 13, 2015.

DATES: Send written comments on the Draft EIS on or before March 13, 2015.

ADDRESSES: Send written comments or requests for copies to Mr. Tim Rust, Bureau of Reclamation, Resources Management Division, 2800 Cottage Way, Sacramento, CA 95825, or via email to *trust@usbr.gov.*

To request a compact disc of the Draft EIS, please contact Mr. Tim Rust as indicated above, or call (916) 978–5516. The Draft EIS may be viewed at Reclamation's Web site at *http://www.usbr.gov/mp/cvp/mandi/index.html.* See Supplementary Information section for locations where copies of the Draft EIS are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Rust, Program Manager, Bureau of Reclamation, via email at *trust@usbr.gov,* or at (916) 978–5516; or Mr. Michael Inthavong, Natural Resources Specialist, Bureau of Reclamation, via email at *minthavong@usbr.gov,* or at (559) 487–5295.

SUPPLEMENTARY INFORMATION: The comment period is being extended for the Central Valley Project Municipal and Industrial Water Shortage Policy draft EIS. On November 19, 2014, a 53-day public comment period was opened through notification in the **Federal Register** (79 FR 68912). In response to requests from the public, the comment period is being extended for an additional 18 days. The comment period will now officially close on March 13, 2015.

Background

For background information, see the November 19, 2014, **Federal Register** notice.

Public Review of Draft EIS

Copies of the Draft EIS are available for public review at the following locations:

1. Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
2. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

Public Disclosure

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: December 17, 2014.

Pablo R. Arroyave,

Deputy Regional Director.

[FR Doc. 2015–00155 Filed 1–8–15; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR01113000, XXXR0680R1, RR.R0336A1R.7WRMP0032]

Notice of Availability of a Draft Environmental Impact Statement and Notice of Public Meetings for the Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance, Kittitas and Yakima Counties, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation and Washington State Department of Ecology have made available for public review and comment the Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Draft Environmental Impact Statement (EIS). The Draft EIS describes the potential environmental effects of the No Action Alternative and five action alternatives. The action alternatives examine constructing and operating a pumping plant to access up to 200,000 acre-feet of water in Kachess Reservoir during drought years and conveying it to the Kachess River for irrigation use within the Yakima Project, and constructing and operating a gravity flow tunnel from Keechelus Reservoir to Kachess Reservoir that could convey up to 400 cubic feet of water per second to Kachess Reservoir. The action alternatives include activities to enhance the resiliency of bull trout populations in the Kachess and Keechelus watersheds as well as elsewhere in the Yakima River basin.

DATES: Send written comments on the Draft EIS on or before March 10, 2015.

Two public meetings will be held on the following dates:

1. Tuesday, February 3, 2015, 4:00 p.m. to 7:00 p.m., Ellensburg, WA.
2. Thursday, February 5, 2015, 4:00 p.m. to 7:00 p.m., Cle Elum, WA.

ADDRESSES: Send written comments or requests for copies to Ms. Candace McKinley, Bureau of Reclamation, 1917 Marsh Road, Yakima, WA 98901; or via email to *kkbt@usbr.gov.* The Draft EIS is also accessible on the following Web sites: *http://www.usbr.gov/pn/programs/eis/kdrpp/index.html and http://www.usbr.gov/pn/programs/eis/kkc/index.html.*

The public meeting locations are:

1. Ellensburg—Hal Holmes Community Center, 209 N. Ruby Street, Ellensburg, Washington 98926;
2. Cle Elum—U.S. Forest Service, Cle Elum Ranger District, Tom Craven Conference Room, 803 W. 2nd Street, Cle Elum, Washington 98922.

FOR FURTHER INFORMATION CONTACT: Ms. Candace McKinley, 509–575–5848, ext. 603; or by email at *kkbt@usbr.gov.*

SUPPLEMENTARY INFORMATION: This EIS was previously identified in the Notice of Intent to Prepare an Environmental Impact Statement as ''Keechelus Reservoir-to-Kachess Reservoir Conveyance and Kachess Inactive Storage.'' The name was changed to better reflect the proposed action evaluated in the EIS.

The Draft EIS documents the potential direct, indirect, and cumulative physical, biological, and socioeconomic environmental effects that may result from the new pumping plant at Kachess Reservoir, water conveyance from Keechelus Reservoir to Kachess

Reservoir, and bull trout enhancements within the Yakima River basin.

The Draft EIS evaluates construction and operation of two alternative designs and locations for the Kachess Drought Relief Pumping Plant, including reservoir intakes and tunnels, pumping plants and pump units, pipelines, surge tanks, outlet works, fish screens and barriers, power supply substations, and electric transmission lines. The Draft EIS also evaluates construction and operation of two alternative designs and alignments for the Keechelus-to-Kachess Conveyance, including the Yakima River diversion and intake, the Yakima River-to-Keechelus portal conveyance, fish screens, bored tunnels, discharge structures, spillways and stilling basins, and mechanical buildings. The fifth action alternative evaluates implementation of both the Kachess Drought Relief Pumping Plant and the Keechelus-to-Kachess Conveyance. All action alternatives include several proposals to improve streamflow and habitat functions, eliminate passage barriers, increase abundance, and improve overall resiliency of bull trout populations in the Kachess and Keechelus watersheds.

The objectives of the proposals are to address conditions in the Yakima River basin including: (1) Fish impacts caused by high flows in the upper Yakima River; (2) insufficient capacity of Keechelus Reservoir to fully capture runoff in the Keechelus watershed; (3) currently inaccessible storage in Kachess Reservoir; (4) difficulty in refilling Kachess Reservoir during drought years; and (5) low resiliency of bull trout, an Endangered Species Act-listed species.

The primary study area generally encompasses Kachess Reservoir and its tributaries, Keechelus Reservoir and its tributaries, the Kachess River, the Yakima River between Keechelus Dam and the Easton Diversion Dam near Lake Easton, the South Fork Tieton River, and the electric transmission line route from near Easton to the Kachess Reservoir pumping plant. The extended study area generally includes the Yakima Project vicinity.

Reclamation is conducting feasibility studies for both the Kachess Drought Relief Pumping Plant and the Keechelus-to-Kachess Conveyance. After release of the DEIS for public review and comment, the Final EIS will be prepared and processed with the Final Feasibility Report to support decision making for any related future recommendation, approvals, or authorizations that may result.

Authority

The Kachess and Keechelus reservoirs were authorized on December 12, 1905, by the Secretary of the Interior in connection with the Tieton and Sunnyside Divisions of the Yakima Project. The Secretary was acting under authority of the Reclamation Act of June 17, 1902. The Yakima River Basin Water Enhancement Project was authorized on December 28, 1979 (93 Stat. 1241, Pub. L. 96–162, Feasibility Study—Yakima River Basin Water Enhancement Project). Title XII of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4526, Pub. L. 103–434) authorized fish, wildlife, and recreation as additional purposes of the Yakima Project.

Public Review of Draft EIS

Copies of the Draft EIS are available for public review at the following locations:

1. Bureau of Reclamation, Columbia-Cascades Area Office, 1917 Marsh Road, Yakima, Washington 98901.
2. Washington State Department of Ecology, 15 W. Yakima Avenue, Suite 200, Yakima, Washington 98902.

Libraries

1. Carpenter Memorial Library, 302 N Pennsylvania Ave., Cle Elum, WA 98922.
2. Ellensburg Public Library, 209 N. Ruby St., Ellensburg, WA 98926.
3. Roslyn Public Library, 201 S. First St., Roslyn, WA 98941.
4. Benton City Library, 810 Horne Dr., Benton City, WA 99320.
5. Kennewick Library, 1620 S. Union St., Kennewick, WA 99338.
6. Kittitas Public Library, 200 N. Pierce St., Kittitas, WA 98934.
7. Mid-Columbia Library, 405 S. Dayton St., Kennewick, WA 99336.
8. Pasco Library, 1320 W. Hopkins St., Pasco, WA 99301.
9. Prosser Library, 902 7th St., Prosser, WA 99350.
10. Richland Public Library, 955 Northgate Dr., Richland, WA 99352.
11. Sunnyside Public Library, 621 Grant Ave., Sunnyside, WA 98944.
12. Toppenish Library, 1 S. Elm St., Toppenish, WA 98948.
13. Wapato Library, 119 E. 3rd St., Wapato, WA 98951.
14. Washington State Library, Point Plaza East, 6880 Capitol Blvd. SE., Tumwater, WA 98504.
15. West Richland Library, 3803 W. Van Giesen St., Richland, WA 99353.
16. Yakama Nation Library, 100 Spiel-Yi Loop, Toppenish, WA 98948.
17. Yakima Valley Regional Library, 102 N. 3rd St., Yakima, WA 98901.

Special Assistance for Public Meetings

If special assistance is required at the public meetings, please contact Ms. Candace McKinley, at *kkbt@usbr.gov* or 509–575–5848, ext. 603. Please notify Ms. McKinley as far in advance of the meeting as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. TTY users may dial 711 to obtain a toll-free TTY relay.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 5, 2015.

Lorri J. Lee,

Regional Director, Pacific Northwest Region.

[FR Doc. 2015–00153 Filed 1–8–15; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[15XR5173F7, RX120560500000004, RR02142500]

Notice of Availability and Notice of Public Meeting for the Draft Environmental Impact Statement/ Environmental Impact Report for the North Valley Regional Recycled Water Program

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation and the City of Modesto have made available for public review and comment the North Valley Regional Recycled Water Program Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). The North Valley Regional Recycled Water Program would provide recycled water from the Cities of Turlock and Modesto via the Central Valley Project's Delta-Mendota Canal to Del Puerto Water District for irrigation purposes, and would further provide annual supplemental water to south of the Sacramento-San Joaquin River Delta Central Valley Project Improvement Act designated wildlife refuges for wetlands.

DATES: Written comments on the Draft EIS/EIR should be submitted on or before March 10, 2015.

A meeting to receive oral or written comments will be held on Wednesday, February 11, 2015 from 5 to 8 p.m. Staff will be available to take comments and answer questions during this time.

ADDRESSES: Send written comments to Mr. Ben Lawrence, Bureau of Reclamation, 1243 N Street, Fresno, California 93721; or via email to *blawrence@usbr.gov.*

The public meeting will be held at Modesto City Hall, Room 2001, 1010 10th Street, Modesto, California.

The Draft EIS/EIR may be viewed at the Bureau of Reclamation's Web site at *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=17241,* or at the following locations:

1. Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, CA 93721.
2. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

To request a compact disc of the Draft EIS/EIR, please contact Mr. Ben Lawrence as indicated above, or call (559) 487–5039.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Lawrence, Natural Resources Specialist, Bureau of Reclamation, via email at *blawrence@usbr.gov,* or at (559) 487–5039; or Mr. Scott Taylor, Repayment Specialist, Bureau of Reclamation, via email at *staylor@usbr.gov,* or at (559) 487–5504.

SUPPLEMENTARY INFORMATION: The Del Puerto Water District (Del Puerto WD) and the Cities of Turlock and Modesto propose to implement a regional solution to address water supply shortages within Del Puerto WD's service area on the west side of the San Joaquin River in San Joaquin, Stanislaus and Merced Counties. Specifically, the project proposes to deliver up to 59,000 acre-feet per year by 2045 of recycled water produced by the cities to the Delta Mendota Canal (DMC). After introduction to the DMC, the recycled water would be conveyed to Del Puerto WD customers, to the Central Valley Project Improvement Act-designated refuges or to San Luis Reservoir for storage, depending on time of year and water demand. The Draft EIS/EIR assesses the environmental effects of four alternatives being considered, which are described below. In each case (except for the No Action Alternative), operational exchanges with the Bureau of Reclamation may be necessary in order to balance seasonal supply and demand.

Under Alternative 1, the Combined Alignment Alternative, a new pipe would be constructed to deliver treated water from Turlock's facilities to the city of Modesto's pumping plant. From there, a pipeline would be constructed to deliver the combined water from both cities west, underneath the San Joaquin River. The pipeline would end at a new discharge structure on the DMC. The DMC would then be used to convey water to downstream users.

Alternative 2, the Separate Alignment Alternative, is similar to Alternative 1, except that separate pipelines would be constructed from the Modesto and Turlock water treatment facilities. There would be two crossings underneath the San Joaquin River, and two new discharge structures on the DMC.

Under Alternative 3, the Patterson Irrigation District (PID) Conveyance Alternative, Modesto and Turlock would continue to discharge their treated water to the San Joaquin River. The water would be diverted by PID at their existing intake on the river, which would need to be expanded, delivered to the DMC by way of an expanded PID conveyance system, and discharged to the DMC by way of a new outfall structure. From there, the water would be conveyed to downstream users. This alternative would require an expansion of PID's fish screen facility and a pipeline parallel to PID's main canal to accommodate increased water volume, but no new river crossings.

Alternative 4, the No Action Alternative, represents the state of the environment without implementation of any action alternatives. Modesto and Turlock would continue to discharge their treated municipal water to the San Joaquin River, and no additional water would be supplied to Del Puerto WD or the Central Valley Project Improvement Act refuges.

Special Assistance for Public Meetings

If special assistance is required to participate in the scoping meeting, please contact Mr. Benjamin Lawrence at (559) 487–5039, or via email at *blawrence@usbr.gov.* Please contact Mr. Lawrence at least 10 working days prior to the meeting. A telephone device for the hearing impaired (TTY) is available at (559) 487–5933.

Public Disclosure

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: December 12, 2014.

Pablo Arroyave,

Deputy Regional Director.

[FR Doc. 2015–00168 Filed 1–8–15; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–001]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 12, 2015 at 11:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–457 and 731–TA–1153 (Review) (Tow-Behind Lawn Groomers from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on January 22, 2015.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

Issued: January 7, 2015.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–00232 Filed 1–7–15; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 14, 2015 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 731–TA–986 and 987 (Second Review) (Ferrovanadium from China and South Africa). The Commission is currently scheduled to complete and file its determinations and views of the Commission on January 28, 2015.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 6, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–00229 Filed 1–7–15; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 01–15]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR 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:

Tuesday, January 13, 2015

10 a.m.—Oral hearing on Objection to Commission's Proposed Decision in Claim No. IRQ–I–010.

11 a.m.—Issuance of Proposed Decisions in claims against Libya.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., 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, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2015–00264 Filed 1–7–15; 4:15 pm]

BILLING CODE 4410–BA–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Federal Advisory Committee on International Exhibitions (FACIE) Panel Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meetings of the Federal Advisory Committee on International Exhibitions (FACIE) Panel will be held by teleconference from the National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC, 20506 as follows (all meetings are Eastern time and ending times are approximate):

Federal Advisory Committee on International Exhibitions (application review): This meeting will be by teleconference and will be closed.

DATES: January 29, 2015—2:00 p.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: January 6, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–00141 Filed 1–8–15; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting—date change.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts Advisory Panel to the National Council on the Arts previously announced for January 16, 2015, has been changed. The meeting will be held by teleconference from the National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC, 20506 as follows (all meetings are Eastern time and ending times are approximate):

Partnerships/Folk & Traditional Arts (application review): This meeting will be closed.

DATES: January 26, 2014. 12:00 p.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Dated: January 6, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–00140 Filed 1–8–15; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Committee on Science and Engineering Indicators (SEI), pursuant to NSF regulations (45 CFR part 614), the

National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

DATE AND TIME: Friday, January 16, 2015, 10–11 a.m. EST.

SUBJECT MATTER: SEI chair's remarks, and discussion of the Companion Report to *Science & Engineering Indicators* 2014.

STATUS: Open.

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is Matt Wilson at *mbwilson@nsf.gov.*

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2015–00237 Filed 1–7–15; 4:15 pm]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Reports of Evidence of Material Violations.

SEC File No. 270–514, OMB Control No. 3235–0572.

Notice is hereby given that pursuant to the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Sections 3501–3520, the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension of the previously approved collection of information discussed below.

On February 6, 2003, the Commission published final rules, effective August 5, 2003, entitled ''Standards of Professional Conduct for Attorneys Appearing and Practicing Before the Commission in the Representation of an Issuer'' (17 CFR 205.1–205.7). The information collection embedded in the rules is necessary to implement the Standards of Professional Conduct for Attorneys prescribed by the rule and required by Section 307 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7245). The rules impose an ''up-the-ladder'' reporting requirement when attorneys appearing and practicing before the Commission become aware of evidence of a material violation by the issuer or any officer, director, employee, or agent of the issuer. An issuer may choose to establish a qualified legal compliance committee (''QLCC'') as an alternative procedure for reporting evidence of a material violation. In the rare cases in which a majority of a QLCC has concluded that an issuer did not act appropriately, the QLCC may communicate the information to the Commission. The collection of information is, therefore, an important component of the Commission's program to discourage violations of the federal securities laws and promote ethical behavior of attorneys appearing and practicing before the Commission.

The respondents to this collection of information are attorneys who appear and practice before the Commission and, in certain cases, the issuer, and/or officers, directors and committees of the issuer. In providing quality representation to issuers, attorneys may report evidence of violations to others within the issuer, including the Chief Legal Officer, the Chief Executive Officer, and, where necessary, the directors. In addition, officers and directors investigate evidence of violations and report within the issuer the results of the investigation and the remedial steps they have taken or sanctions they have imposed. Except as discussed below, we therefore believe that the reporting requirements imposed by the rule are ''usual and customary'' activities that do not add to the burden that would be imposed by the collection of information.

Certain aspects of the collection of information, however, may impose a burden. For an issuer to establish a QLCC, the QLCC must adopt written procedures for the confidential receipt, retention, and consideration of any report of evidence of a material violation. We estimate for purposes of the PRA that there are approximately 11,396 issuers that are subject to the rules.[1] Of these, we estimate that approximately 3.3 percent, or 373, have established or will establish a QLCC.[2] Establishing the written procedures required by the rule should not impose a significant burden. We assume that an issuer would incur a greater burden in the year that it first establishes the procedures than in subsequent years, in which the burden would be incurred in updating, reviewing, or modifying the procedures. For purposes of the PRA, we assume that an issuer would spend 6 hours every three-year period on the procedures. This would result in an average burden of 2 hours per year. Thus, we estimate for purposes of the PRA that the total annual burden imposed by the collection of information would be 746 hours. Assuming half of the burden hours will be incurred by outside counsel at a rate of $500 per hour would result in a cost of $186,500.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden[s] of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

[1] This figure is based on the estimated 8,145 operating companies that filed annual reports on Form 10–K, Form 20–F, or Form 40–F during the 2013 fiscal year (the most recent data currently available), and the estimated 3,251 investment companies that filed periodic reports on Form N–SAR between June 1, 2013 and May 31, 2014 (the most recent data currently available).

[2] This estimate is based on the issuer filings made with the Commission during the past three years that include a reference to the issuer's QLCC.

Dated: January 5, 2015.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00139 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 15g–3, SEC File No. 270–346, OMB Control No. 3235–0392.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15g–3—Broker or dealer disclosure of quotations and other information relating to the penny stock market (17 CFR 240.15g–3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15g–3 requires that brokers and dealers disclose to customers current quotation prices or similar market information in connection with transactions in penny stocks. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 221 broker-dealers will spend an average of 87 hours annually to comply with this rule. Thus, the total compliance burden is approximately 19,245 burden-hours per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to *PRA_Mailbox@sec.gov.*

Dated: January 5, 2015.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00138 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31404; File No. 812–14381]

Morgan Stanley Smith Barney LLC and Morgan Stanley Global Investment Solutions; Notice of Application

January 5, 2015

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 12(d)(1)(A), (B) and (C) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY: *Summary of the Application:* Applicants request an order that would permit certain series of a unit investment trust (''UIT'') registered under the Act to acquire shares of registered management investment companies and unit investment trusts or series thereof (the ''Funds'') both within and outside the same group of investment companies.

Applicants: Morgan Stanley Smith Barney LLC (the ''Depositor''), and Morgan Stanley Global Investment Solutions (''MS GIS'').

DATES: *Filing Date:* The application was filed on October 22, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 29, 2015, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: 2000 Westchester Avenue, Purchase, NY 10577.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, 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 Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a UIT registered under the Act.[1] Each Series will be a series of a Trust and will offer units for sale to the public (''Units''). Each Series will be created pursuant to a trust agreement which will incorporate by reference a master trust agreement between the Depositor and a financial institution that satisfies the criteria in section 26(a) of the Act (the ''Trustee''). The Depositor is a broker dealer registered under the Securities Exchange Act of 1934 and is a member of the Financial Industry Regulatory Authority, Inc. (''FINRA'').

2. Applicants request relief to permit a Series to invest in registered investment companies or series thereof (''Funds'') that are (a) part of the same ''group of investment companies'' (as that term is defined in section 12(d)(1)(G) of the Act) as the Series (''Affiliated Funds''), and (b) not part of

[1] Applicants request that the order also extend to future registered UITs sponsored by the Depositor or an entity controlling, controlled by or under common control with the Depositor and their respective series (the future UITs, together with the Trust, are collectively the ''Trusts'' and the series of the Trusts are the ''Series''). All existing entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

the same group of investment companies as the Series (''Unaffiliated Funds''). Each of the Funds will be registered as a closed-end management investment company (''Closed-end Fund''), an open-end management investment company (''Open-end Fund'') or a UIT. An Unaffiliated Fund that is a UIT is referred to as an ''Unaffiliated Underlying Trust.'' An Unaffiliated Fund that is a Closed-end Fund or Open-end Fund is referred to as an ''Unaffiliated Underlying Fund.'' Certain of the Funds may be registered as Open-end Funds or UITs, but have received exemptive relief in order that their shares may be traded at ''negotiated prices'' on a national securities exchange in the same manner as other equity securities (the ''Exchange-traded Funds''). Shares of Exchange-traded Funds and Closed-end Funds will be deposited in a Series at prices which are based on the market value of the securities, as determined by an evaluator. The Depositor does not have discretion as to when portfolio securities of a Series will be sold, except that the Depositor is authorized to sell securities in extremely limited circumstances described in the Series' prospectus.

3. Applicants state that the requested relief will provide investors with a practical, cost-efficient means of investing in a professionally selected, diversified portfolio of securities of investment companies. Each Series may also make investments in securities that are not issued by registered investment companies.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the value of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any broker or dealer (''Broker'') from selling the shares of the investment company to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company, other investment companies having the same investment adviser, and companies controlled by such investment companies, from acquiring more than 10% of the outstanding voting stock of a registered closed-end investment company.

2. Section 12(d)(1)(G) provides, in relevant part, that section 12(d)(1) will not apply to securities of a registered open-end investment company or UIT acquired by a registered UIT if the acquired company and the acquiring company are part of the same group of investment companies, provided that certain other requirements contained in section 12(d)(1)(G) are met, including that the only other investments held by the acquiring company are government securities and short-term paper. Applicants state that they may not rely on section 12(d)(1)(G) because a Series will invest in Unaffiliated Funds and securities other than government securities and short-term paper in addition to Affiliated Funds.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit a Series to purchase or otherwise acquire shares of the Funds in excess of the percentage limitations of sections 12(d)(1)(A) and (C), and the Open-end Funds, their principal underwriters and any Broker to sell their shares to the Series in excess of the percentage limitations of section 12(d)(1)(B).

4. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

5. Applicants state that the concern about undue control does not arise with respect to a Series' investment in Affiliated Funds, as reflected in section 12(d)(1)(G) of the Act. Applicants also state that the proposed arrangement will not result in undue influence by a Series or its affiliates over Unaffiliated Funds. Applicants have agreed that (a) the Depositor, (b) any person controlling, controlled by or under common control with the Depositor, and (c) any investment company and any issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, sponsored or advised by the Depositor (or any person controlling, controlled by or under common control with the Depositor) (collectively, the ''Group'') will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning section 2(a)(9) of the Act. Applicants also note that conditions 2, 3, 5 and 6 set forth below will address the concern about undue influence with respect to the Unaffiliated Funds.

6. As an additional assurance that an Unaffiliated Underlying Fund understands the implications of an investment by a Series under the requested order, prior to a Series' investment in the Unaffiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), the Series and the Unaffiliated Underlying Fund will execute an agreement stating, without limitation, that the Depositor and Trustee and the board of directors or trustees to the Unaffiliated Underlying Fund and the investment adviser(s) to the Unaffiliated Underlying Fund, understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Underlying Fund, including a Closed-end Fund or an Exchange-traded Fund, may choose to reject an investment from the Series by declining to execute the Participation Agreement.

7. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. Applicants state that any sales charges and/or service fees, as those terms are defined in Rule 2830 of the Conduct Rules of the NASD, Inc. (''NASD Conduct Rules''),[2] charged with respect to Units of a Series will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the NASD Conduct Rules.[3] In addition, the Trustee or Depositor will waive fees otherwise payable to it by a Series in an amount at least equal to any compensation (including fees paid pursuant to any plan adopted by an Unaffiliated Underlying Fund under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Trustee or Depositor, or an affiliated person of the Trustee or Depositor, other than any advisory fees paid to the Trustee or

[2] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to Conduct Rule 2830 that may be adopted by FINRA.

[3] With respect to purchasing Closed-end Funds or Exchange-traded Fund shares, a Series may incur the customary brokerage commissions associated with purchasing any equity security on the secondary market.

Depositor or its affiliated person by an Unaffiliated Underlying Fund, in connection with the investment by the Series in the Unaffiliated Fund.

8. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A), except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. Applicants also represent that a Series' prospectus and sales literature will contain concise, ''plain English'' disclosure designed to inform investors of the unique characteristics of the trust of funds structure, including, but not limited to, its expense structure and the additional expenses of investing in Funds.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second-tier affiliate''), acting as principal, from selling any security or other property to or acquiring any security or other property from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Series and an Affiliated Fund might be deemed to be under the common control of the Depositor or an entity controlling, controlled by, or under common control with the Depositor. Applicants also state that a Series and a Fund might become ''affiliated persons'' if the Series acquires 5% or more of the Fund's outstanding voting securities. The sale or redemption by a Fund of its shares to or from a Series therefore could be deemed to be a principal transaction prohibited by Section 17(a) of the Act.[4]

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act. Applicants state that the terms of the proposed transactions are fair and reasonable and do not involve overreaching. Applicants note that the consideration paid for the sale and redemption of shares of the Open-end Funds and Funds that are UITs will be based on the net asset values of the Funds. Finally, applicants state that the proposed transactions will be consistent with the policies of each Series and Fund, and with the general purposes of the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Group, in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of the Unaffiliated Fund, the Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares.

2. No Series or its Depositor, promoter, principal underwriter, or any person controlling, controlled by, or under common control with any of those entities (each, a ''Series Affiliate'') will cause any existing or potential investment by the Series in an Unaffiliated Fund to influence the terms of any services or transactions between the Series or Series Affiliate and the Unaffiliated Fund or its investment adviser(s), sponsor, promoter, principal underwriter, or any person controlling, controlled by, or under common control with any of those entities.

3. Once an investment by a Series in the securities of an Unaffiliated Underlying Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of directors or trustees of the Unaffiliated Underlying Fund, including a majority of the disinterested board members, will determine that any consideration paid by the Unaffiliated Underlying Fund to the Series or Series Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Underlying Fund; (b) is within the range of consideration that the Unaffiliated Underlying Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Underlying Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

4. The Trustee or Depositor will waive fees otherwise payable to it by the Series, in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Underlying Fund under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Trustee or Depositor, or an affiliated person of the Trustee or Depositor, other than any advisory fees paid to the Trustee or Depositor or its affiliated person by an Unaffiliated Underlying Fund, in connection with the investment by a Series in the Unaffiliated Fund.

5. No Series or Series Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Underlying Fund or sponsor to an Unaffiliated Underlying Trust) will cause an Unaffiliated Fund to purchase a security in an offering of

[4] To the extent purchases and sales of shares of an Exchange-traded Fund occur in the secondary market (and not through principal transactions directly between a Series and an Exchange-traded Fund), relief from section 17(a) would not be necessary. The requested relief is intended to cover, however, transactions directly between Exchange-traded Funds and a Series. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an Exchange-traded Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Series because the investment adviser to the Exchange-traded Fund or an entity controlling, controlled by or under common control with the investment adviser is also a depositor to the Series. In addition, the request for relief does not cover principal transactions with Closed-end Funds.

securities during the existence of any underwriting or selling syndicate of which a principal underwriter is the Depositor or a person of which the Depositor is an affiliated person (each, an ''Underwriting Affiliate,'' except any person whose relationship to the Unaffiliated Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an ''Affiliated Underwriting.''

6. The board of an Unaffiliated Underlying Fund, including a majority of the disinterested board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Underlying Fund in an Affiliated Underwriting once an investment by a Series in the securities of the Unaffiliated Underlying Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The board of the Unaffiliated Underlying Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Series in the Unaffiliated Underlying Fund. The board of the Unaffiliated Underlying Fund will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Underlying Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Underlying Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The board of the Unaffiliated Underlying Fund will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. An Unaffiliated Underlying Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Series in the securities of the Unaffiliated Underlying Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the board of the Unaffiliated Underlying Fund were made.

8. Before investing in an Unaffiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), each Series and the Unaffiliated Underlying Fund will execute a Participation Agreement stating, without limitation, that the Depositor and Trustee, and the board of directors or trustees of the Unaffiliated Underlying Fund and the investment adviser(s) to the Unaffiliated Underlying Fund, understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), a Series will notify the Unaffiliated Underlying Fund of the investment. At such time, the Series also will transmit to the Unaffiliated Underlying Fund a list of the names of each Series Affiliate and Underwriting Affiliate. The Series will notify the Unaffiliated Underlying Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The Unaffiliated Underlying Fund and the Series will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment, and for a period not less than six years thereafter, the first two years in an easily accessible place.

9. Any sales charges and/or service fees charged with respect to Units of a Series will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the NASD Conduct Rules.

10. No Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00137 Filed 1–8–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73987; File No. SR–NYSEMKT–2014–115]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE MKT OpenBook MKT Order Imbalances

January 5, 2015.

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 December 23, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE MKT OpenBook to establish eligibility requirements for redistribution on a managed non-display basis and to establish an access fee for managed non-display data recipients, operative on January 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE MKT OpenBook,[4] as set forth on the NYSE MKT LLC Equities Proprietary Market Data Fee Schedule (''Fee Schedule'') to establish eligibility requirements for redistribution of market data on a Managed Non-Display basis and to establish an access fee for Managed Non-Display data recipients, operative on January 1, 2015.

Non-Display Use of NYSE MKT market data means accessing, processing, or consuming NYSE MKT market data delivered via direct and/or Redistributor[5] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE MKT OpenBook and does not allow for further internal distribution or external redistribution of NYSE MKT OpenBook by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT OpenBook through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT OpenBook through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Unit-of-Count policy.[6] The Exchange is proposing to retire the Unit-of-Count Policy, and as a result, eligibility for Managed Non-Display Services of NYSE MKT Open Book would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE MKT OpenBook from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE MKT OpenBook for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE MKT OpenBook in the Redistributor's own messaging formats (rather than using raw NYSE message formats) by reformatting and/or altering NYSE MKT OpenBook prior to retransmission without affecting the integrity of NYSE MKT OpenBook and without rendering NYSE MKT OpenBook inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[7]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT OpenBook through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT OpenBook through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $500/month applicable only to data recipients that receive NYSE MKT OpenBook from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, data recipients, including recipients of Managed Non-Display Services, are required to pay an Access Fee of $1,000/month to receive NYSE MKT OpenBook. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients, including recipients of Managed Non-Display Services.[8] In recognition that data recipients of Managed Non-Display Services receive NYSE MKT OpenBook in a controlled format, the Exchange proposes to establish an Access Fee that would be applicable only to data recipients of Managed Non-Display Services and that would be half the size of the current Access Fee. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $1,000/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access fee would be in addition to the current Managed Non-Display Services Fee of $750/month by each data recipient.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned

[4] *See* Securities Exchange Act Release Nos. 69285 (Apr. 3, 2013), 78 FR 21172 (Apr. 9, 2013) (SR–NYSEMKT–2013–32) and 72020 (Sept. 9, 2014), 79 FR 55040 (Sept. 15, 2014) (SR–NYSEMKT–2014–72) (''Non-Display Fee filings'').

[5] ''Redistributor'' means a vendor or any other person that provides an NYSE MKT data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[6] *See* Non-Display Fee filings, *supra* note 4.

[7] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market (''Nasdaq'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[8] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish an access fee for Managed Non-Display Services for NYSE MKT BBO, NYSE MKT Trades, and NYSE MKT Order Imbalances that are also half of the existing access fee for each respective data feed. *See* SR–NYSEMKT–2014–113 and SR–NYSEMKT–2014–114.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4), (5).

with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[11]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fee directly and appropriately reflects the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[12] The fee is also equitable and not unfairly discriminatory because it would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE MKT OpenBook.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE MKT OpenBook is entirely optional. The Exchange is not required to make NYSE MKT OpenBook available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE MKT OpenBook. Firms that do purchase NYSE MKT OpenBook do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE MKT OpenBook or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE MKT OpenBook at the new prices have a variety of alternative market data products from which to choose,[13] or if NYSE MKT OpenBook does not provide sufficient value to firms as offered based on the uses those firms have or planned to make of it, such firms may simply choose to conduct their business operations in ways that do not use NYSE MKT OpenBook. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[14] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.[15]

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [16]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[17]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for

[11] *See supra* note 7.

[12] *See supra* note 7. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. *See* NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[13] *See* NASDAQ Rule 7023 (Nasdaq Totalview) and BATS Rule 11.22.(a) and (c)(BATS TCP Pitch and Multicast Pitch.

[14] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[15] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[16] *NetCoalition,* 615 F.3d at 535.

[17] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [18]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [19] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[20]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE MKT OpenBook unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE MKT OpenBook can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014 more than 80% of the transaction volume on each of NYSE MKT and NYSE MKT's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A supra-competitive increase in the fees for either executions or market data would

[18] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), *available at http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (DC Dist.) 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[19] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[20] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[21] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[22]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[23]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[24] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[25] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE MKT OpenBook, competitors offer closer substitute products.[26] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[27]

[21] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[22] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[23] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[24] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[25] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[26] *See supra* note 13.

[27] *See supra* note 25.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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) [28] of the Act and subparagraph (f)(2) of Rule 19b–4 [29] 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) [30] 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.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(2).

[30] 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–NYSEMKT–2014–115 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–NYSEMKT–2014–115. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–115 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00133 Filed 1–8–15; 8:45 am]

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[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73986; File No. SR–NYSEMKT–2014–113]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE MKT BBO and NYSE MKT Trades

January 5, 2015.

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 December 23, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE MKT BBO and NYSE MKT Trades to: (1) Change the way the user fee is calculated and applied, operative on January 1, 2015; and (2) establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, operative on January 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE MKT BBO and NYSE MKT Trades data feeds, as set forth on the NYSE MKT LLC Equities Proprietary Market Data Fee Schedule (''Fee Schedule''), as follows:

- To change the way the user fees are calculated and applied by eliminating the unit-of-count policy, operative on January 1, 2015; and
- To establish eligibility requirements for redistribution of market data on a Managed Non-Display basis and establish an access fee for Managed Non-Display data recipients, operative on January 1, 2015.

Changes to the Method of Calculating and Applying User Fees

For display use of the NYSE MKT BBO and NYSE MKT Trades data feeds, the Fee Schedule sets forth a Professional User Fee of $1 per month or a Non-Professional User Fee of $0.05 per month. These user fees generally apply to each display device that has access to NYSE MKT BBO or NYSE MKT Trades.

Vendors and subscribers that are eligible for the Unit-of-Count Policy may avail themselves of an alternative method for counting how many user fees should be charged for display use of the NYSE MKT BBO and NYSE MKT Trades data feeds. The Unit-of-Count Policy was first introduced by the Exchange's affiliate, New York Stock Exchange LLC (''NYSE''), as a pilot in 2009 for its NYSE OpenBook data feed [4] and is available for NYSE MKT BBO and NYSE MKT Trades.[5] Since April 2013, the Unit-of-Count Policy has applied only to user fees associated with display usage.[6]

The effect of the Unit-of-Count Policy for these subscribers is that a single user fee applies to individual users that receive multiple display device services, *i.e.,* multiple devices displaying NYSE MKT BBO or NYSE MKT Trades, referred to as ''netting.'' The Exchange proposes to retire the Unit-of-Count Policy effective January 1, 2015. As a result, as of January 1, 2015, subscribers that are currently eligible for ''netting'' under the Unit-of-Count Policy would pay the user fee for each display device that has access to NYSE MKT BBO or NYSE MKT Trades, even if a single user is receiving NYSE MKT BBO or NYSE MKT Trades over multiple devices, as well as all other applicable fees set forth on the Fee Schedule.

Proposed Changes to Managed Non-Display Services and Fees

Non-Display Use of NYSE MKT market data means accessing, processing, or consuming NYSE MKT market data delivered via direct and/or Redistributor [7] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE MKT BBO or NYSE MKT Trades and does not allow for further internal distribution or external redistribution of NYSE MKT BBO or NYSE MKT Trades by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT BBO or NYSE MKT Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT BBO or NYSE MKT Trades through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Unit-of-Count policy.[8] In connection with the retirement of the Unit-of-Count Policy,[9] eligibility for Managed Non-Display Services of NYSE MKT BBO or NYSE MKT Trades would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE MKT BBO or NYSE MKT Trades from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE MKT BBO or NYSE MKT Trades for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE MKT BBO or NYSE MKT Trades in the Redistributor's own messaging formats (rather than using raw message formats) by reformatting and/or altering NYSE MKT BBO or NYSE MKT Trades prior to retransmission without affecting the integrity of NYSE MKT BBO or NYSE MKT Trades and without rendering NYSE MKT BBO or NYSE MKT Trades inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[10]

[4] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[5] *See* Securities Exchange Act Release Nos. 61936 (Apr. 16, 2010), 75 FR 21088 (Apr. 22, 2010) (SR–NYSEAmex–2010–30 (notice) and 62187 (May 27, 2010), 75 FR 31500 (June 2, 2014) (SR–NYSEAmex–2010–35) (approval order) (''Unit-of-Count Policy filing'').

[6] *See* Securities Exchange Act Release Nos. 69285 (April 3, 2013), 78 FR 21172 (April 9, 2013) (SR–NYSEMKT–2013–32) (''2013 Non-Display Filing'') and 72020 (September 9, 2014), 79 FR 55040 (Sept. 15, 2014) (SR–NYSEMKT–2014–72). Existing customers approved for the Unit-of-Count Policy for display usage have continued to follow the Policy in anticipation of new display fees being implemented.

[7] ''Redistributor'' means a vendor or any other person that provides an NYSE MKT data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[8] *See* Unit-of-Count Policy filing, *supra* note 5.

[9] The Exchange has separately proposed to retire the Unit-of-Count Policy and modify the eligibility requirements for Managed Non-Display Services for all of its proprietary market data products, including NYSE MKT BBO and NYSE MKT Trades, and thereby harmonize the eligibility requirements for all NYSE MKT data products that have Managed Non-Display fees. *See* SR–NYSEMKT–2014–115 (filing for NYSE MKT OpenBook) and SR–NYSEMKT–2014–114 (filing for NYSE MKT Order Imbalances) (collectively, ''NYSE MKT 2014 Filings'').

[10] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market (''Nasdaq'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT BBO or NYSE MKT Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT BBO or NYSE MKT Trades through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $375/month applicable only to data recipients that receive NYSE MKT BBO and/or NYSE MKT Trades from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, all data recipients, including recipients of Managed Non-Display Services, are required to pay an Access Fee of $750/month to receive NYSE MKT BBO and/or NYSE MKT Trades. The Exchange charges a single Access Fee for clients receiving both NYSE MKT BBO and NYSE MKT Trades. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients, including recipients of Managed Non-Display Services.[11] In recognition that data recipients of Managed Non-Display Services receive NYSE MKT BBO and NYSE MKT Trades in a controlled format, the Exchange proposes to establish an Access Fee that would be applicable only to data recipients of Managed Non-Display Services and that would be half the size of the current Access Fee. As with the existing Access Fee, the Exchange would charge a single Access Fee for Managed Non-Display Services for clients of both NYSE MKT BBO and NYSE MKT Trades. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $750/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access Fee would be in addition to the current Managed Non-Display Services Fee of $150/month [sic] for NYSE MKT BBO and $600/month [sic] for NYSE MKT Trades by each data recipient.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to retire the Unit-of-Count Policy. First, as evidenced by the low number of eligible subscribers, the Unit-of-Count Policy is not currently considered useful to market data recipients as a method for counting users. In addition, as the Exchange noted in the 2013 Non-Display Filing,[14] the Exchange determined at that time that its fee structure, which was based primarily on counting devices, both display and non-display, and included the Unit-of-Count Policy, was no longer appropriate in light of market and technology developments. In addition to implementing the non-display pricing to address the difficulties of counting non-display devices, and to reflect the value of non-display data to customers, the Exchange noted that it anticipated implementing a new display use fee structure later. Retiring the Unit-of-Count Policy, which now applies only to display use, would allow the Exchange to apply a consistent method for counting users among all customers using NYSE MKT BBO or NYSE MKT Trades, whether on a display or non-display basis.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[15]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[16] The fees are also equitable and not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE MKT BBO or NYSE MKT Trades.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE MKT BBO and NYSE MKT Trades are entirely optional. The Exchange is not required to make NYSE MKT BBO and NYSE MKT Trades available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE MKT BBO or NYSE MKT Trades. Firms that do purchase NYSE MKT BBO or NYSE MKT Trades do so for the primary goals of using the products to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE MKT BBO or NYSE MKT Trades or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE MKT BBO or NYSE MKT Trades at the new prices have a variety of alternative market data products from which to choose,[17] or if NYSE MKT BBO or NYSE MKT Trades do not provide sufficient value to firms as offered based on the uses those firms have or planned to make of the products, such firms may simply choose

[11] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish access fees for Managed Non-Display Services for NYSE MKT OpenBook and NYSE MKT Order Imbalances that are also half of the existing access fee for each respective data feed. *See* NYSE MKT 2014 Filings, *supra* note 9.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4), (5).

[14] *See* 2013 Non-Display Filing, *supra,* note 6.

[15] *See supra* note 10.

[16] *See supra* note 10. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. See NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[17] *See* NASDAQ Rule 7047 (Nasdaq Basic) and BATS Rule 11.22 (BATS TOP and Last Sale).

to conduct their business operations in ways that do not use NYSE MKT BBO or NYSE MKT Trades. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[18] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and alternative trading systems (''ATSs'') have chosen not to do so.[19]

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [20]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[21]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [22]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [23] More recently, SEC Chair

[18] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[19] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[20] *NetCoalition,* 615 F.3d at 535.

[21] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[22] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), *available at http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (DC Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[23] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either

Continued

Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[24]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE MKT BBO or NYSE MKT Trades unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE MKT BBO or NYSE MKT Trades can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014, more than 80% of the transaction volume on each of NYSE MKT and the Exchange's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A super-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[25] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[26]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[24] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

[25] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[26] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F.W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[27]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[28] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[29] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE MKT BBO and NYSE MKT Trades, competitors offer close substitute products.[30] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[31]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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)[32] of the Act and subparagraph (f)(2) of Rule 19b–4[33] 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)[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:

[27] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[28] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[29] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[30] *See supra* note 17.

[31] *See supra* note 29.

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(2).

[34] 15 U.S.C. 78s(b)(2)(B).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–113 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–NYSEMKT–2014–113. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–113 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00132 Filed 1–8–15; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73982; File No. SR–DTC–2014–13]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fees Charged for Tax Services

January 5, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4[2] thereunder, notice is hereby given that on December 23, 2014, The Depository Trust Company (''DTC'') 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 DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the DTC Fee Schedule (''Fee Schedule'') in order to adjust certain fees related to DTC's tax services, as more fully described below.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC 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

1. Purpose

Pursuant to the proposed rule change DTC would revise certain fees for the: (i) DTC TaxRelief℠ Service,[6] and (ii) DTC U.S. Tax Withholding Service, as more fully described below.

DTC TaxRelief℠ Service Fee Increase

The DTC TaxRelief℠ Service enables investors to preclude overwithhholding on income payments in various foreign jurisdictions. The current fee structure for this service is not aligned with the costs to DTC of providing this service as it relates to processing of Canadian securities due to associated volumes and the resources necessary for such processing.

Therefore, to better align fees with the costs associated with delivering this aspect of this service to Participants, DTC proposes to increase the fee per final election (including post-payable) processed for foreign withholding tax relief for Canadian securities from 0.625% of tax relief secured to 0.700% of tax relief secured, with the minimum fee per final election increased from $32.00 to $38.00.[7]

U.S. Tax Withholding Service

The U.S. Tax Withholding Service provides for withholding of U.S. tax on payments to foreign Participants of DTC. As applicable law has become increasingly complex, the cost of DTC's offering of this service is not aligned with fees charged. Accordingly, pursuant to the proposed change, to better align the Fee Schedule with the costs associated with providing this service to Participants, DTC would amend the Fee Schedule for the U.S. Tax Withholding Service as follows:

1. The fee charged for withholding instructions per each Elective Dividend Service (''EDS'') election for a transaction processed by the U.S. Tax Withholding Service would increase from $1.80 to $2.50.
2. The monthly fee per account would increase from $150 to $250.
3. DTC would begin charging U.S. branches of foreign banks (''U.S. Branches'') the above monthly fee of $250 per account. Currently U.S. Branches are not charged the monthly fee for this service.[8]
4. The annual minimum fee charged to Participants for use of the U.S. Tax Withholding Service would increase from $5,000 to $7,500. For example, if an account is charged $7,000 in fees for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Each term not otherwise defined herein has the respective meaning set forth in DTC's rules (the ''Rules'').

[6] DTC TaxRelief℠ is a service mark of DTC.

[7] As applicable, the existing maximum fee and/or surcharge per final election as set forth in the Fee Schedule would continue to remain in effect for Canadian securities. Current fees for non-Canadian securities would remain unchanged.

[8] U.S. Branches utilize this service for tax reporting purposes only rather than full tax withholding. However, imposition of the monthly minimum charge is necessary in light of associated costs incurred by DTC in this regard.

use of the service during a calendar year, then the account would be charged an additional $500 to reach the annual minimum amount of $7,500. However, the existing annual minimum charge does not apply to U.S. Branches and this would remain the case. In addition, the Fee Schedule would be clarified to reflect that this fee does not apply to U.S. Branches.

The fee changes set forth above would be incorporated into the Fee Schedule which is available at *www.dtcc.com*.

Implementation Date

The proposed fee changes would take effect on January 2, 2015.

2. Statutory Basis

The proposed rule change would align DTC's fees for the services described above with the costs of delivering applicable services, and the charges would apply equally in accordance with Participants' use of DTC services. Therefore, DTC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(D) of the Act,[9] which requires that DTC's Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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) [10] of the Act and paragraph (f) of Rule 19b–4 [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–DTC–2014–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–DTC–2014–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site at *http://dtcc.com/legal/sec-rule-filings.aspx*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2014–13 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00128 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78q–1(b)(3)(D).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73981; File No. SR–CME–2014–58]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Fee Waiver Program for Certain OTC FX Cleared-Only Products

January 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 22, 2014, Chicago Mercantile Exchange Inc. (''CME'') 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 primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is proposing to extend an existing fee waiver program supporting certain CME cleared-only over-the-counter (''OTC'') foreign exchange (''FX'') products through December 31, 2015.

The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

CME OTC FX Fee Waiver Program

Program Purpose

The purpose of this Program is to incentivize market participants to submit transaction in the OTC FX products listed below to the Clearing House for clearing. The resulting increase in volume benefits all participant segments in the market.

Product Scope

The following cleared only OTC FX products (''Products''):

1. CME Cleared OTC FX—Emerging Markets.

a. USDBRL, USDCLP, USDCNY, USDCOP, USDIDR, USDINR, USDKRW, USDMYR, USDPEN, USDPHP, USDRUB, USDTWD Non-Deliverable Forwards.

b. USDCZK, USDHUF, USDHKD, USDILS, USDMXN, USDPLN, USDSGD, USDTHB, USDTRY, USDZAR Cash-Settled Forwards.

2. CME Cleared OTC FX—Majors.

a. AUDJPY, AUDUSD, CADJPY, EURAUD, EURCHF, EURGBP, EURJPY, EURUSD, GBPUSD, NZDUSD, USDCAD, USDCHF, USDDKK, USDJPY, USDNOK, USDSEK Cash-Settled Forwards.

Eligible Participants

The temporary reduction in fees will be open to all market participants and will automatically be applied to any transaction in the Products submitted to the Clearing House for clearing.

Program Term

Start date is February 1, 2012. End date is December 31, 201[4]*5*.

Hours

The Program will be applicable regardless of the transaction time.

Program Incentives

Fee Waivers. All market participants that submit transactions in the Products to the Clearing House will have their clearing fees waived.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to make proposed changes to CME rules governing certain cleared-only OTC FX products.

The proposed changes would extend an existing fee waiver program that applies to these OTC FX products. The only proposed changes are modifying the current December 31, 2014 termination date for the current fee waiver program to December 31, 2015.

There is no limit to the number of participants that may participate in the proposed fee waiver program; it will be open to all market participants and will be automatically applied to all transaction fees in the enumerated OTC FX products. The changes that are described in this filing are limited to fee changes for OTC FX products. The proposed changes would become effective on filing.

The proposed fee changes are limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in any way. CME notes that it recently filed a proposed rule change that clarified that CME has decided not to clear security-based swaps, except in a very limited set of circumstances.[5] CME has also certified the proposed rule change that is the subject of this filing to the CFTC in CFTC Submission 14–523.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[6] More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii)[7] of the Securities Exchange Act of 1934 and Rule 19(f)(2)[8] thereunder. CME believes that the proposed fee change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder and, in particular, to Section 17A(b)(3)(D),[9] because the proposed fee changes apply equally to all market participants and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues. As such, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A)[10] of the Act and paragraph (f)(2) of Rule 19b–4 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed rule change extends a currently operating OTC FX fee waiver program for an additional year. These products are swaps under the exclusive jurisdiction of the CFTC, and, as such, these proposed changes do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19(f)(2) thereunder.[12] 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,

[5] *See* Securities Exchange Act Release No. 34–73615 (Nov. 17, 2014), 79 FR 69545 (Nov. 21, 2014) (SR–CME–2014–49). The only exception is with regards to Restructuring European Single Name CDS Contracts created following the occurrence of a Restructuring Credit Event in respect of an iTraxx Component Transaction. The clearing of Restructuring European Single Name CDS Contracts will be a necessary byproduct after such time that CME begins clearing iTraxx Europe index CDS.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 15 U.S.C. 78q–1(b)(3)(D).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19(f)(2).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–CME–2014–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CME–2014–58 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00127 Filed 1–8–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73990; File No. SR–EDGA–2014–35]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Top and Last Sale Data Feeds

January 5, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 24, 2014, EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposed rule change to amend Rule 13.8 to establish two new market data products know as: (i) EDGA TOP; and (ii) EDGA Last Sale. The proposed market data products are identical to the existing Top and Last Sale data feeds available on the BATS Exchange, Inc. (''BZX'') and the BATS Y-Exchange, Inc. (''BYX'', collectively with BZX, ''BATS'').[5] The Exchange also proposes to amend Rule 13.8(a) to rename the EDGA Book Feed as the EDGA Depth and align with system functionality currently available on BATS.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Earlier this year, the Exchange and its affiliate, EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BZX and BYX (together with BYX, BZX, EDGA and EDGX, the ''BGM Affiliated Exchanges'' or ''BATS Exchange'').[6] In the context of the Merger, the BGM Affiliated Exchanges are working to migrate EDGX and EDGA onto the BATS technology platform, and align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. As a result of these efforts, the Exchange proposes to establish two new market data products know as: (i) EDGA TOP; and (ii) EDGA Last Sale. The proposed market data products are identical to the existing Top and Last Sale data feeds available on BATS.[7] The Exchange also proposes to amend Rule 13.8(a) to rename the EDGA Book Feed as the EDGA Depth and to align with system functionality currently available on BATS.

EDGA Top and EDGA Last Sale

The Exchange is proposing to offer two new data feeds that are identical to data feeds currently available on BATS: (i) EDGA Last Sale; and (ii) EDGA Top. EDGA Last Sale will provide real-time, intraday trade information, including price, volume and time of executions based on orders entered into the

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* BATS Rule 11.22(d) and (g).

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[7] *See supra* note 5.

System.[8] EDGA Last Sale will not include quotation information. EDGA Top will include top of book quotations and last sale execution information based on orders entered into the System. The quotations made available via EDGA Top provide an aggregated size and do not indicate the size or number of individual orders at the best bid or ask. With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for both EDGA Last Sale and EDGA Top.

Various data recipients may wish to subscribe to and use EDGA Last Sale or EDGA Top. For instance, data recipients that provide real-time market information on public Web sites or offer dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can use EDGA Last Sale or EDGA Top in lieu of using the Exchange's existing data feeds. Such data recipients may prefer EDGA Last Sale or EDGA Top because the Exchange's existing data feeds contain a significant amount of additional information that such data recipients may not need, which may result in unnecessary technology costs (*e.g.,* development, telecommunications or storage costs).

Market participants can gain access to EDGA last sale prices and top of book quotations that are integrated with the prices that other markets make available through the Securities Information Processors (''SIP''). Therefore, no market participant is required to subscribe to EDGA Last Sale or EDGA Top because the same top of book quotations and last sale prices are available elsewhere and in the Exchange's other data products.[9] The Exchange represents that it will not distribute the proposed feeds on a more timely basis than it makes available the data that is provided to the SIPs for consolidation and dissemination.

EDGA Book Feed, Rule 13.8(a)

Rule 13.8(a) describes the Exchanges depth of book data feed known as the EDGA Book Feed as a data feed that contains all displayed orders for listed securities trading on EDGA, order executions, order cancellations, order modifications, order identification numbers, and administrative messages. First, the Exchange proposes to rename the EDGA Book Feed as EDGA Depth, as it believes this name more accurately describes the book feed and aligns with the naming conventions proposed above for EDGA Top and EDGA Last Sale.

Second, the Exchange proposes to amend Rule 13.8(a)(i) align with system functionality currently available on BATS. Under Rule 13.8(a)(1), Members[10] may obfuscate their unique order identification numbers on EDGA Depth per Market Participant Identifier for all logical ports or specific logical ports for subsequent replenishments of an order with a Reserve Quantity,[11] as designated by the Member. In order to do so, the Member must contact the Exchange's Member Services (''Member Services'') department. In such case, a randomly generated order identification number would be applied the next trading day by the Exchange for all subsequent replenishments of orders with a Reserve Quantity until further instructions are received by Member Services from the Member.

As amended, Rule 13.8(a)(i) would state that, unless otherwise instructed by the Member, the Exchange will obfuscate the Member's unique order identification number on EDGA Depth for each replenishment of an order with a Reserve Quantity. In order to opt out of the Exchange's obfuscation functionality, the Member must contact the Exchange's Trade Desk. As a result, Members will no longer be required to elect obfuscation of their order identification numbers on EDGA Depth. Rather, Members must instruct the Exchange when they chose to not have their order identification number obfuscated and displayed on EDGA Depth.

Implementation Date

The Exchange intends to implement the proposed rule change on or about January 12, 2015, which is the anticipated date upon which the migration of the Exchange to the BATS technology platform will be complete and the proposed data feeds may be made available.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with section 6(b) of the Act[12] and further the objectives of section 6(b)(5) of the Act[13] because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange also believes this proposal is consistent with section 6(b)(5) of the Act[14] because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data. The proposed rule change also is designed to support the principles of section 11A(a)(1)[15] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

The proposed rule change would benefit investors by facilitating their prompt access to last sale information and best-bid-and-offer information contained in EDGA Last Sale and EDGA Top. The Exchange believe adding EDGA Last Sale and EDGA Top as well as the amendments to Rule 13.8(a)(i) would align the Exchange data feed offerings and functionality with that available on BATS upon migration of the Exchange to the BATS technology platform. Consistent technology offering identical market data products by each of the BGM Affiliated Exchange will, in turn, avoid investor confusion as well as simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on BATS. The proposed rule change would provide greater harmonization between the rules of the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. The proposed market data products are identical to the existing Top and Last Sale data feeds available on BATS.[16] The proposed amendments to Rule 13.8(a)(i) are also consistent with system functionality currently available on BATS. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the

[8] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[9] *See* Exchange Rule 13.8(a) and (b).

[10] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[11] The term ''Reserve Quantity'' is defined as ''[t]he portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the EDGA Book. Both the portion of the order with a Displayed instruction and the Reserve Quantity are available for execution against incoming orders.'' *See* Exchange Rule 11.6(m).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78k–1(a)(1).

[16] *See supra* note 5.

mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to achieve a consistent technology offering by the BGM Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [19] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay in order to permit the Exchange to implement the proposed rule change on January 12, 2015, which is the anticipated date upon which the migration of EDGA and EDGX to the BATS technology platform will be complete. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to provide identical data products across the BGM Affiliated Exchanges upon migration of the Exchange to the BATS technology platform, thereby simplifying the technology integration for Members of the Exchange that are also participants on EDGX, EDGA, and BYX. In this regard, the Exchange notes that, since completion of the Merger, both Members and the BGM Affiliated Exchanges have made numerous systems changes in preparation for the technology migration occurring on January 12, 2015, the Exchange has issued frequent updates to Members informing them of the BGM Affiliated Exchange technology migration as well as its anticipated time line so that Members may make the requisite system changes. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[21]

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–EDGA–2014–35 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–EDGA–2014–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of EDGA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–35 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00136 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73985; File No. SR–NYSE–2014–75]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE BBO and NYSE Trades

January 5, 2015.

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 December 23, 2014, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE BBO and NYSE Trades to: (1) Change the way the user fee is calculated and applied, operative on January 1, 2015; and (2) establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, operative on January 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE BBO and NYSE Trades data feeds, as set forth on the NYSE Proprietary Market Data Fee Schedule (''Fee Schedule''), as follows:

- To change the way the user fees are calculated and applied by eliminating the unit-of-count policy, operative on January 1, 2015; and
- To establish eligibility requirements for redistribution of market data on a Managed Non-Display basis and establish an access fee for Managed Non-Display data recipients, operative on January 1, 2015.

Changes to the Method of Calculating and Applying User Fees

For display use of the NYSE BBO and NYSE Trades data feeds, the Fee Schedule sets forth a Professional User Fee of $60 per month or a Non-Professional User Fee of $15 per month. These user fees generally apply to each display device that has access to NYSE BBO or NYSE Trades.

Vendors and subscribers that are eligible for the Unit-of-Count Policy may avail themselves of an alternative method for counting how many user fees should be charged for display use of the NYSE BBO and NYSE Trades data feeds. The Unit-of-Count Policy was first introduced by the Exchange as a pilot in 2009 for its NYSE OpenBook data feed [4] and is available for NYSE BBO and NYSE Trades.[5] Since April 2013, the Unit-of-Count Policy has applied only to user fees associated with display usage.[6]

The effect of the Unit-of-Count Policy for these subscribers is that a single user fee applies to individual users that receive multiple display device services, *i.e.,* multiple devices displaying NYSE BBO or NYSE Trades, referred to as ''netting.'' The Exchange proposes to retire the Unit-of-Count Policy effective January 1, 2015. As a result, as of January 1, 2015, subscribers that are currently eligible for ''netting'' under the Unit-of-Count Policy would pay the user fee for each display device that has access to NYSE BBO or NYSE Trades, even if a single user is receiving NYSE BBO or NYSE Trades over multiple devices, as well as all other applicable fees set forth on the Fee Schedule.

Proposed Changes to Managed Non-Display Services and Fees

Non-Display Use of NYSE market data means accessing, processing, or consuming NYSE market data delivered via direct and/or Redistributor [7] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE BBO or NYSE Trades and does not allow for further internal distribution or external redistribution of NYSE BBO or NYSE Trades by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE BBO or NYSE Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE BBO or NYSE Trades through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Unit-of-Count policy.[8] In connection with the retirement of the Unit-of-Count Policy,[9] eligibility for

[4] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[5] *See* Securities Exchange Act Release Nos. 61914 (Apr. 14, 2010), 74 FR 21077 (Apr. 22, 2010) (SR–NYSE–2010–30) (notice—NYSE BBO); 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30) (approval order—NYSE BBO); 59309 (Jan. 28, 2009), 74 FR 6073 (Feb. 4, 2009) (SR–NYSE–2009–04) (notice—NYSE Trades); and 590606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (approval order—NYSE Trades) (SR–NYSE–2009–04) (''Unit-of-Count Policy filings'').

[6] *See* Securities Exchange Act Release No. 69278 (Apr. 2, 2013), 78 FR 20973 (Apr. 8, 2013) (SR–NYSE–2013–25) (''2013 Non-Display Filing'') and 72923 (Aug. 26, 2014), 79 FR 52079 (Sept. 2, 2014) (SR–NYSE–2014–43). Existing customers approved for the Unit-of-Count Policy for display usage have continued to follow the Policy in anticipation of new display fees being implemented.

[7] ''Redistributor'' means a vendor or any other person that provides an NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[8] *See* Unit-of-Count Policy filings, *supra* note 5.

[9] The Exchange has separately proposed to retire the Unit-of-Count Policy and modify the eligibility requirements for Managed Non-Display Services for all of its proprietary market data products, including NYSE OpenBook and NYSE Order Imbalances, and thereby harmonize the eligibility requirements for all NYSE data products that have Managed Non-Display fees. *See* SR–NYSE–2014–76 (filing for NYSE OpenBook) and SR–NYSE–2014–

Managed Non-Display Services of NYSE BBO or NYSE Trades would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE BBO or NYSE Trades from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE BBO or NYSE Trades for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE BBO or NYSE Trades in the Redistributor's own messaging formats (rather than using raw message formats) by reformatting and/or altering NYSE BBO or NYSE Trades prior to retransmission without affecting the integrity of NYSE BBO or NYSE Trades and without rendering NYSE BBO or NYSE Trades inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[10]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE BBO or NYSE Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE BBO or NYSE Trades through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $750/month applicable only to data recipients that receive NYSE BBO and/or NYSE Trades from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, data recipients are required to pay an Access Fee of $1,500/month to receive NYSE BBO and/or NYSE Trades, which has not been charged to data recipients of Managed Non-Display Services of NYSE BBO or NYSE Trades. The Exchange charges a single Access Fee for clients receiving both NYSE BBO and NYSE Trades. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients, including recipients of Managed Non-Display Services.[11] In recognition that data recipients of Managed Non-Display Services receive NYSE BBO and NYSE Trades in a controlled format, the Exchange proposes to establish an Access Fee that would be applicable only to data recipients of Managed Non-Display Services and that would be half the size of the current Access Fee. As with the existing Access Fee, the Exchange would charge a single Access Fee for Managed Non-Display Services for clients of both NYSE BBO and NYSE Trades. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $1,500/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access Fee would be in addition to the current Managed Non-Display Services Fee of $2,400/month [sic] for NYSE BBO and $1,000/month [sic] for NYSE Trades by each data recipient.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to retire the Unit-of-Count Policy. First, as evidenced by the low number of eligible subscribers, the Unit-of-Count Policy is not currently considered useful to market data recipients as a method for counting users. In addition, as the Exchange noted in the 2013 Non-Display Filing,[14] the Exchange determined at that time that its fee structure, which was based primarily on counting devices, both display and non-display, and included the Unit-of-Count Policy, was no longer appropriate in light of market and technology developments. In addition to implementing the non-display pricing to address the difficulties of counting non-display devices, and to reflect the value of non-display data to customers, the Exchange noted that it anticipated implementing a new display use fee structure later. Retiring the Unit-of-Count Policy, which now applies only to display use, would allow the Exchange to apply a consistent method for counting users among all customers using NYSE BBO or NYSE Trades, whether on a display or non-display basis.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[15]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the

77 (filing for NYSE Order Imbalances) (collectively, ''NYSE 2014 Filings'').

[10] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market (''NASDAQ'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[11] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish access fees for Managed Non-Display Services for NYSE OpenBook and NYSE Order Imbalances that are also half of the existing access fee for each respective data feed. *See* NYSE 2014 Filings, *supra* note 9.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4), (5).

[14] *See* 2013 Non-Display Filing, *supra,* note 6.

[15] *See supra* note 10.

number and range of these functions continue to grow through innovation and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[16] The fees are also equitable and not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE BBO or NYSE Trades.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE BBO and NYSE Trades are entirely optional. The Exchange is not required to make NYSE BBO and NYSE Trades available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE BBO or NYSE Trades. Firms that do purchase NYSE BBO or NYSE Trades do so for the primary goals of using the products to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE BBO or NYSE Trades or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE BBO or NYSE Trades at the new prices have a variety of alternative market data products from which to choose,[17] or if NYSE BBO or NYSE Trades do not provide sufficient value to firms as offered based on the uses those firms have or planned to make of the products, such firms may simply choose to conduct their business operations in ways that do not use NYSE BBO or NYSE Trades. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[18] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and alternative trading systems (''ATSs'') have chosen not to do so.[19]

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [20]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[21]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual

[16] *See supra* note 9 [sic]. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. *See* NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[17] *See* NASDAQ Rule 7047 (Nasdaq Basic) and BATS Rule 11.22 (BATS TOP and Last Sale).

[18] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[19] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[20] *NetCoalition,* 615 F.3d at 535.

[21] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. See Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [22]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [23] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[24]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE BBO or NYSE Trades unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE BBO or NYSE Trades can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014, more than 80% of the transaction volume on each of NYSE and the Exchange's affiliates NYSE Arca and NYSE MKT, LLC was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A super-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[25] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs

[22] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html;* see also Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (D.C. Dist.) 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[23] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[24] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

[25] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

between joint products that would shed any light on competitive or efficient pricing.[26]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[27]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[28] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[29] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE MKT, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE BBO and NYSE Trades, competitors offer close substitute products.[30] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[31]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

[26] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.*, F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[27] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[28] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[29] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[30] *See supra* note 16.

[31] *See supra* note 28 [sic].

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)[32] of the Act and subparagraph (f)(2) of Rule 19b–4[33] 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)[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–NYSE–2014–75 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–NYSE–2014–75. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for Web site viewing and printing at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2014–75 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00129 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73989; File No. SR–EDGX–2014–36]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Top and Last Sale Data Feeds

January 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 23, 2014, EDGX Exchange, Inc. (the ''Exchange'' or the ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b-4(f)(6)(iii) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposed rule change to amend Rule 13.8 to establish two new market data products know as: (i) EDGX TOP; and (ii) EDGX Last Sale. The proposed market data products are identical to the existing Top and Last Sale data feeds available on the BATS Exchange, Inc. (''BZX'') and the BATS Y-Exchange, Inc. (''BYX'', collectively with BZX, ''BATS'').[5] The Exchange also proposes to amend Rule 13.8(a) to rename the EDGX Book Feed as the EDGX Depth and align with system functionality currently available on BATS.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Earlier this year, the Exchange and its affiliate, EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BZX and BYX (together with BYX, BZX, EDGA and EDGX, the ''BGM Affiliated Exchanges'' or ''BATS

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[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(2).

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b-4(f)(6)(iii).

[5] *See* BATS Rule 11.22(d) and (g).

Exchange'').[6] In the context of the Merger, the BGM Affiliated Exchanges are working to migrate EDGX and EDGA onto the BATS technology platform, and align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. As a result of these efforts, the Exchange proposes to establish two new market data products know as: (i) EDGX TOP; and (ii) EDGX Last Sale. The proposed market data products are identical to the existing Top and Last Sale data feeds available on BATS.[7] The Exchange also proposes to amend Rule 13.8(a) to rename the EDGX Book Feed as the EDGX Depth and to align with system functionality currently available on BATS.

EDGX Top and EDGX Last Sale

The Exchange is proposing to offer two new data feeds that are identical to data feeds currently available on BATS: (i) EDGX Last Sale; and (ii) EDGX Top. EDGX Last Sale will provide real-time, intraday trade information, including price, volume and time of executions based on orders entered into the System.[8] EDGX Last Sale will not include quotation information. EDGX Top will include top of book quotations and last sale execution information based on orders entered into the System. The quotations made available via EDGX Top provide an aggregated size and do not indicate the size or number of individual orders at the best bid or ask. With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for both EDGX Last Sale and EDGX Top.

Various data recipients may wish to subscribe to and use EDGX Last Sale or EDGX Top. For instance, data recipients that provide real-time market information on public Web sites or offer dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can use EDGX Last Sale or EDGX Top in lieu of using the Exchange's existing data feeds. Such data recipients may prefer EDGX Last Sale or EDGX Top because the Exchange's existing data feeds contain a significant amount of additional information that such data recipients may not need, which may result in unnecessary technology costs (*e.g.,* development, telecommunications or storage costs).

Market participants can gain access to EDGX last sale prices and top of book quotations that are integrated with the prices that other markets make available through the Securities Information Processors (''SIP''). Therefore, no market participant is required to subscribe to EDGX Last Sale or EDGX Top because the same top of book quotations and last sale prices are available elsewhere and in the Exchange's other data products.[9] The Exchange represents that it will not distribute the proposed feeds on a more timely basis than it makes available the data that is provided to the SIPs for consolidation and dissemination.

EDGX Book Feed, Rule 13.8(a)

Rule 13.8(a) describes the Exchanges depth of book data feed known as the EDGX Book Feed as a data feed that contains all displayed orders for listed securities trading on EDGX, order executions, order cancellations, order modifications, order identification numbers, and administrative messages. First, the Exchange proposes to rename the EDGX Book Feed as EDGX Depth, as it believes this name more accurately describes the book feed and aligns with the naming conventions proposed above for EDGX Top and EDGX Last Sale.

Second, the Exchange proposes to amend Rule 13.8(a)(i) align with system functionality currently available on BATS. Under Rule 13.8(a)(1), Members[10] may obfuscate their unique order identification numbers on EDGX Depth per Market Participant Identifier for all logical ports or specific logical ports for subsequent replenishments of an order with a Reserve Quantity,[11] as designated by the Member. In order to do so, the Member must contact the Exchange's Member Services (''Member Services'') department. In such case, a randomly generated order identification number would be applied the next trading day by the Exchange for all subsequent replenishments of orders with a Reserve Quantity until further instructions are received by Member Services from the Member.

As amended, Rule 13.8(a)(i) would state that, unless otherwise instructed by the Member, the Exchange will obfuscate the Member's unique order identification number on EDGX Depth for each replenishment of an order with a Reserve Quantity. In order to opt out of the Exchange's obfuscation functionality, the Member must contact the Exchange's Trade Desk. As a result, Members will no longer be required to elect obfuscation of their order identification numbers on EDGX Depth. Rather, Members must instruct the Exchange when they chose to not have their order identification number obfuscated and displayed on EDGX Depth.

Implementation Date

The Exchange intends to implement the proposed rule change on or about January 12, 2015, which is the anticipated date upon which the migration of the Exchange to the BATS technology platform will be complete and the proposed data feeds may be made available.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act[12] and further the objectives of Section 6(b)(5) of the Act[13] because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act[14] because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[15] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

The proposed rule change would benefit investors by facilitating their prompt access to last sale information and best-bid-and-offer information contained in EDGX Last Sale and EDGX Top. The Exchange believe adding

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[7] *See supra* note 5.

[8] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[9] *See* Exchange Rule 13.8(a) and (b).

[10] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[11] The term ''Reserve Quantity'' is defined as ''[t]he portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the EDGX Book. Both the portion of the order with a Displayed instruction and the Reserve Quantity are available for execution against incoming orders.'' *See* Exchange Rule 11.6(m).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78k–1(a)(1).

EDGX Last Sale and EDGX Top as well as the amendments to Rule 13.8(a)(i) would align the Exchange data feed offerings and functionality with that available on BATS upon migration of the Exchange to the BATS technology platform. Consistent technology offering identical market data products by each of the BGM Affiliated Exchange will, in turn, avoid investor confusion as well as simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on BATS. The proposed rule change would provide greater harmonization between the rules of the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. The proposed market data products are identical to the existing Top and Last Sale data feeds available on BATS.[16] The proposed amendments to Rule 13.8(a)(i) are also consistent with system functionality currently available on BATS. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the BGM Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to achieve a consistent technology offering by the BGM Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[16] *See supra* note 5.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [19] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay in order to permit the Exchange to implement the proposed rule change on January 12, 2015, which is the anticipated date upon which the migration of EDGA and EDGX to the BATS technology platform will be complete. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to provide identical data products across the BGM Affiliated Exchanges upon migration of the Exchange to the BATS technology platform, thereby simplifying the technology integration for Members of the Exchange that are also participants on EDGX, EDGA, and BYX. In this regard, the Exchange notes that, since completion of the Merger, both Members and the BGM Affiliated Exchanges have made numerous systems changes in preparation for the technology migration occurring on January 12, 2015, the Exchange has issued frequent updates to Members informing them of the BGM Affiliated Exchange technology migration as well as its anticipated time line so that Members may make the requisite system changes. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[21]

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.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

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–EDGX–2014–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 EDGX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–36 and should be submitted on or before January 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00135 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73988; File No. SR–Phlx–2014–81]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extranet Access Fee

January 5, 2015.

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 December 23, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend section VIII (NASDAQ OMX PSX[3] Fees) of the Exchange's Pricing Schedule entitled ''Extranet Access'' (''Pricing Schedule''), as well as to clarify the applicability of the Extranet Access Fee and thereby conform it to the equivalent fee of other markets.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated that they become operative on January 2, 2015.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend section VIII of the Exchange's Pricing Schedule, as well as to clarify the applicability of the Extranet Access Fee and thereby conform it to the equivalent fee of another market. This will conform the Exchange's Pricing Schedule to that of other markets.[4]

Specifically, the Exchange proposes to modify section VIII of the Pricing Schedule to re-name Extranet Access as Extranet Access Fee and indicate that certain non-Exchange Customer Premises Equipment (''CPE'') Products shall be assessed a monthly access fee of $1,000 per CPE. The Exchange also proposes to conform the Extranet Access Fee to that of another market, specifically NASDAQ Rule 7025, by also indicating that if an extranet provider uses multiple CPE Configurations[5] to provide market data feeds to any recipient the monthly fee shall apply to each such CPE Configuration; and that no Extranet Access Fee will be charged for connectivity to market data feeds containing only consolidated data, which includes data disseminated by the Unlisted Trading Privileges Securities Information Processor (''UTP SIP''). This proposal conforms the Extranet Access Fee on PSX in section VIII of the Pricing Schedule to the equivalent fee in NASDAQ Rule 7025.

The Extranet Access Fee was introduced a decade ago on NASDAQ Rule 7025.[6] The Extranet Access Fee was introduced about a year ago on PSX in section VIII of the Pricing Schedule, but free of charge.[7] By this proposal, the Exchange normalizes the cost and structure of its Extranet Access Fee to that of the equivalent decade-old NASDAQ fee.

Section VIII of the Pricing Schedule currently indicates that extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds shall not be assessed a monthly access fee per recipient Customer Premises Equipment (CPE) Configuration. As noted, this proposal indicates the same fee as NASDAQ Rule 7025, namely $1,000 per CPE Configuration, and adds to section VIII of the Pricing Schedule verbatim clarifying language from NASDAQ Rule 7025. As proposed, section VIII of the Pricing Schedule will read as follows: ''Extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $1,000 per recipient Customer Premises Equipment (''CPE'') Configuration. If an extranet provider uses multiple CPE Configurations to provide market data feeds to any

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PSX is a facility of Phlx.

[4] The Exchange, NASDAQ OMX BX, Inc. (''BX''), and The NASDAQ Stock Market (''LLC'') are self-regulatory organizations (''SROs'') that are wholly owned subsidiaries of The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). NOM (a facility of the Exchange [sic]), BX, BX Options (a facility of BX), Phlx, and PSX (a facility of Phlx) (together with the Exchange known as the ''NASDAQ Markets''), intend to independently file proposals to conform their respective Extranet Access Fee rules to NASDAQ Rule 7025.

[5] As defined in section VIII of the Pricing Schedule, a ''Customer Premises Equipment Configuration'' means any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to NASDAQ [sic] market data feeds to a recipient's site.

[6] *See* Securities Exchange Act Release Nos. 50483 (October 1, 2004), 69 FR 60448 (October 8, 2004) (SR–NASD–2004–118) (establishing the Extranet Access Fee on NASDAQ); and 71199 (December 30, 2013), 79 FR 686 (January 6, 2014) (SR–NASD [sic]–2013–159) (notice of filing and immediate effectiveness increasing the Extranet Access Fee to $1,000).

[7] *See* Securities Exchange Act Release No. 71236 (January 6, 2014), 79 FR 1906 (January 10, 2014) (SR–Phlx–2014–01) (notice of filing and immediate effectiveness establishing the Extranet Access Fee on PSX, and clarifying that no fee is charged at the time of the filing). The Extranet Access Fee was also established on BX. *See* Securities Exchange Act Release Nos. 59615 (March 20, 2009), 74 FR 14604 (March 31, 2009) (SR–BX–2009–005) (establishing the Extranet Access Fee on BX); and 71841 (April 1, 2014), 79 FR 19129 (April 7, 2014) (SR–BX–2014–015) (notice of filing and immediate effectiveness clarifying that the Extranet Access Fee is $750).

recipient, the monthly fee shall apply to each such CPE Configuration. For purposes of this rule, the term ''Customer Premises Equipment Configuration'' shall mean any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to Exchange market data feeds to a recipient's site. No extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. For purposes of this rule, consolidated data includes data disseminated by the UTP SIP. Extranet providers that establish a connection with PSX pursuant to this section VIII of the Pricing Schedule as well as a connection with Phlx pursuant to section XIII of the Pricing [sic] Schedule shall be assessed a total monthly access fee of $1,000 per recipient CPE Configuration.'' The proposal thus conforms section VIII of the Pricing Schedule to NASDAQ Rule 7025, and makes them substantively identical.[8] The proposal also makes it clear that if an extranet provider establishes an Extranet connection for equity business (PSX) as well as its options business, the extranet provider will not need to pay a double $1,000 monthly access fee, but rather only one total monthly access fee of $1,000.

The modified proposed Extranet Access Fee will, as on NASDAQ, be used to help recoup the Exchange's costs associated with maintaining multiple extranet connections with multiple providers. These costs include those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of Extranet Access there have been numerous network infrastructure improvements and administrative controls enacted. Additionally, the Exchange has implemented automated retransmission facilities for most of its data clients that benefit extranet clients by reducing operational costs associated with retransmissions.[9]

As the number of extranets has increased, the management of the downstream customers has expanded and the Exchange has had to ensure appropriate reporting and review processes, which has resulted in a greater cost burden on the Exchange over time. The proposed fee will also help to ensure that the Exchange is better able to closely review reports and uncover reporting errors via audits thus minimizing reporting issues.[10] The network infrastructure has increased in order to keep pace with the increased number of products, which, in turn, has caused an increased administrative burden and higher operational costs associated with delivery via extranets.

Thus, subsequent to the proposal extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $1,000 per CPE Configuration. If, as discussed below, an extranet provider uses multiple CPE Configurations to provide market data feeds to any recipient, the monthly fee shall apply to each such CPE Configuration.

The Exchange proposes two new clarifications to conform the language of section VIII of the Pricing Schedule to that of NASDAQ Rule 7025. Specifically, the Exchange proposes to indicate that if an extranet provider uses multiple CPE Configurations to provide market data feeds to any recipient, the monthly fee shall apply to each such CPE Configuration; and that no extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. For purposes of this rule, consolidated data includes data disseminated by the UTP SIP. These proposed clarifications should serve to reduce any confusion as to the applicability of the Extranet Access Fee. Moreover, the clarifications would make the Exchange's Extranet Access Fee in section VIII work the same as the equivalent fee in NASDAQ Rule 7025, and complete the effort to conform the two rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[11] in general, and with section 6(b)(4) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls.

The Exchange believes that its proposal to amend the Extranet Access Fee in section VIII of the Pricing Schedule, and to clarify the applicability of the Extranet Access Fee and thereby conform the fee with the equivalent fee on NASDAQ, is consistent with the Act.

All similarly situated extranet providers, including the Exchange operating its own extranet, that establish an extranet connection with the Exchange to access market data feeds from the Exchange are subject to the same fee structure. The fee will help the Exchange to offset some of the rising overhead and technology infrastructure, administrative, maintenance and operational costs it incurs in support of the service.

If such costs are covered, the service may provide the Exchange with a profit. As such, the Exchange believes that the proposed fee is reasonable and notes that this proposal represents the first change of the Extranet Access Fee since its introduction. The extranet costs are separate and different from the colocation facility that is able to recoup these fees by charging for servers within the associated data centers. Additionally, the Exchange believes that the proposed change is equitable and not unreasonably discriminatory. The monthly fee is assessed uniformly to all extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds, and is the same for all at $1,000 per recipient CPE Configuration. Thus, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Moreover, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other markets and, of course, the Extranet Access Fee is but one factor in a total platform analysis.

Additionally, section VIII of the Pricing Schedule will be clarified by stating that if an extranet provider uses multiple CPE Configurations to provide market data feeds to any recipient, the monthly fee shall apply to each such CPE Configuration; and that no Extranet Access Fee will be charged for connectivity to market data feeds containing only consolidated data, which for purposes of this rule includes data disseminated by the UTP SIP. This clarification should serve to reduce any confusion as to the applicability of this fee.

The proposal provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is consistent with the Act.

[8] The Exchange notes that while section VIII of the Pricing Schedule and NASDAQ Rule 7025 each contain some language particular to the relevant exchange, with this proposal the language of the two rules is substantively identical.

[9] Also, the Exchange is currently undergoing a technology refresh of the its options trading system, which will deploy state-of-the-art hardware and software architecture to achieve a more efficient and more robust infrastructure in support of the growing needs of our customers.

[10] The Exchange will inform extranet providers of their reporting responsibilities via its public Web site.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

The proposed fees are applied uniformly among extranet providers, which are not compelled to establish a connection with the Exchange to offer access connectivity to market data feeds. For these reasons, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Additionally, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges and, of course, the Extranet Access Fee is but one factor in a total platform analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(3)(A)(ii) of the Act,[13] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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–Phlx–2014–81 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–Phlx–2014–81. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–81, and should be submitted on or before January 30, 2015.[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–00134 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73980; File No. SR–ICC–2014–24]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Revise the ICC Risk Management Framework

January 5, 2015.

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 December 22, 2014, ICE Clear Credit LLC (''ICC'') 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 primarily by ICC. 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 principal purpose of the proposed rule change is to revise the ICC Risk Management Framework to incorporate certain risk model enhancements. These revisions do not require any changes to the ICC Clearing Rules (''Rules'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes revising the ICC Risk Management Framework to incorporate risk model enhancements related to Recovery Rate Sensitivity Requirements (''RRSR''), anti-procyclicality, and ICC's Guaranty Fund (''GF'') allocation methodology. ICC also proposes revisions which are intended to remove obsolete references and ensure

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

consistency. ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

ICC proposes revising its Risk Management Framework to incorporate risk model parameter estimation enhancements related to the RRSR computations. Under the current ICC Risk Management Framework, recovery rate stress scenarios are explicitly incorporated in the RRSR computations and for Jump-to-Default (''JTD'') considerations. The quantity RRSR is designed to capture fluctuations due to potential changes of the market expected recovery rates. In calculating the RRSR, all instruments belonging to a Risk Factor (''RF'') or Risk Sub-Factor (''RSF'') are subjected to Recovery Rate (''RR'') stress scenarios to obtain resulting Profit/Loss (''P/L'') responses, and the worst scenario response is chosen for the estimation of the RF/RSF RRSR. The JTD analysis is designed to capture the unexpected potential losses associated with credit events for assumed SN-specific set of RR stress values. The JTD responses are determined by using minimum and maximum RR levels. Currently, the RRSR and JTD computations use the same RR stress levels.

ICC proposes separating the RR stress levels for these two computations in order to introduce more dynamic and appropriate estimations of the RR stress levels for RRSR purposes. The RR levels for RRSR purposes will reflect a 5-day 99% Expected Shortfall (''ES'') equivalent risk measure associated with RR fluctuations. The proposal will also eliminate index RRSR, as index RRs are not subject to market uncertainty, but rather driven by market conventions. The dynamic feature of the RR stress level estimations is achieved by analyzing historical time series of RRs in order to calibrate a statistical model with a time varying volatility. Under this approach, the RRSR will capture the exposure to RR fluctuations over a 5-day risk horizon described by 99% ES equivalent risk measure. The proposed enhancements provide a robust and quantitative driven approach for establishing the RR stress scenarios.

Additionally, ICC proposes revising its Risk Management Framework to incorporate a portfolio level anti-procyclicality analysis that features price changes observed during and immediately after the Lehman Brothers (''LB'') default. In order to achieve an anti-procyclicality of Spread Response requirements, ICC proposes considerations of explicit price scenarios derived from the greatest price decrease and increase during and immediately after the LB default. These scenarios capture the default of a major participant in the credit market and the market response to the event. The introduced scenarios are defined in price space to maintain the stress severity during periods of low credit spread levels (high price) when the Spread Response requirements, computed under the current framework, are expected to be lower.

Further, the price scenarios, derived from the greatest price decrease and increase during and immediately after the LB default, are explicitly incorporated into the GF sizing to ensure an anti-procyclical GF size behavior. This enhancement also addresses a regulatory requirement as described in Article 30 of the Regulatory Technical Standards,[3] European Market Infrastructure Regulations (''EMIR'').

Furthermore, ICC proposes enhancements to its GF allocation methodology. Currently, the GF allocations reflect a risk ''silo'' approach, *i.e.* separate GF ''silo'' components reflecting the Clearing Participants' (''CPs'') own ''silo'' riskiness and to the GF ''silo'' size. Under the current approach, GF allocations can significantly fluctuate in response to position changes in the portfolios of the CPs that drive the GF size, and in response to distribution of the total GF size across the GF ''silos.'' ICC proposes modifying its methodology, so that the GF allocations reflect the CPs' total uncollateralized losses. Under the proposed approach, the GF allocations are independent of the distribution of the uncollateralized losses across the GF ''silos.'' The new GF allocation methodology reflects an improved and more stable approach which allows for easier attributions of GF contributions to individual CP/client portfolios. Additionally, ICC added clarifying language regarding how the GF computations are performed with explicit currency dependent expressions.

ICC has also made some non-substantive changes to the Risk Management Framework to address CFTC recommendations. Specifically, ICC proposes amending the Risk Management Framework to reflect ICC's current approach towards portfolio diversification. As such, ICC proposes unifying diversification and hedge thresholds, and explicitly setting both to be equal to the lowest estimated sector Kendall Tau correlation coefficient. Additionally, ICC clarified language regarding how ICC meets its liquidity requirements.

Additionally, ICC has made non-substantive changes throughout the framework to correct obsolete references. ICC removed language stating that the Chief Risk Officer is a dual employee of both ICC and its sister company, The Clearing Corporation. Similarly, ICC removed language stating that The Clearing Corporation is the provider of risk management services to ICC. ICC has removed references to the ''U.K. Financial Services Authority'' and replaced with reference to the ''U.K. Prudential Regulatory Authority.'' ''The European Securities and Markets Authority'' was added to the sample list of competent authorities for capital adequacy regulation listed in the framework.

ICC has also made non-substantive changes throughout the Risk Management Framework to ensure consistency. ICC updated the mission statement contained within the document to be consistent with ICC's Board-approved mission statement. Also, ICC has modified the frequency by which the Risk Department monitors various risk metrics from a quarterly basis to a monthly basis to reflect actual business practices.

Section 17A(b)(3)(F) of the Act[4] 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 and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[5] because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed risk model revisions enhance risk policies and are expected to impose more conservative initial margin requirements, which would enhance the financial resources available to ICC and thereby facilitate its ability to promptly

[3] 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 (the ''Regulatory Technical Standards'').

[4] 15 U.S.C. 78q–1(b)(3)(F)

[5] *Id.*

and accurately clear and settle its cleared CDS contracts. In addition, the proposed revisions are consistent with the relevant requirements of Rule 17Ad–22.[6] In particular, the amendments to the Risk Management Framework will enhance the financial resources available to the clearing house by imposing a more conservative initial margin requirement, and are therefore reasonably designed to meet the margin and financial resource requirements of Rule 17Ad–22(b)(2–3).[7] Additionally, the amendments to the Risk Management Framework related to ICC's GF allocation methodology further ensure ICC maintains sufficient financial resources consistent with the requirements of Rule 17Ad–22(b)(3).[8] As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)[9] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The risk model enhancements apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2014–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2014–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2014–24 and should be submitted on or before January 30, 2015.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–00126 Filed 1–8–15; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 240.17Ad–22.

[7] 17 CFR 240.17Ad–22(b)(2–3).

[8] 17 CFR 240.17Ad–22(b)(3).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability for Draft Environmental Impact Statement (Draft EIS), Draft Section 4(f) Evaluation, Draft Subsistence Evaluation, and Schedule of Public Hearings for the Proposed Airport, Angoon, Alaska

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of availability (NOA), notice of comment period, notice of public hearing.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), the FAA issues this notice to advise the public that a Draft EIS for the proposed airport in Angoon has been prepared and is available for public review and comment. Included in the Draft EIS are a subsistence evaluation consistent with Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA) and a draft evaluation pursuant to Section 4(f) of the Department of Transportation Act of 1966 (recodified as 49 U.S.C. 303(c)).

DATES: Comments must be received on or before March 11, 2015. The public comment period will commence on January 9, 2015 and will close on March 11, 2015. The FAA intends to host public information meetings and hearings on the Draft EIS/810 Evaluation/4(f) Evaluation on the following dates:

1. March 3, 2015 in Juneau, Alaska, at the Centennial Hall, 101 Egan Dr., Juneau, AK from 6:00 p.m. to 9:00 p.m.
2. March 5, 2015 in Angoon, Alaska, at the Angoon Community Association Building, 315 Heendae Rd., Angoon, AK from 2:00 p.m. to 7:00 p.m.
3. March 10, 2015 at the Holiday Inn, 550 C St. SW., Washington, DC, from 2:00 p.m. to 5:00 p.m.

ADDRESSES: Copies of the Draft EIS and the evaluations are available at the following locations:

1. Online at *www.angoonairporteis.com*
2. Juneau Public Library
- Downtown Branch, 292 Marine Way, Juneau, AK 99801
- Douglas Branch, 1016 3rd Street, Douglas, AK 99824
- Mendenhall Mall Branch, 9109 Mendenhall Mall Rd., Juneau, AK 99801

3. U.S. Forest Service, Admiralty Island National Monument Office, 8510 Mendenhall Loop Road, Juneau, AK 99801
4. Angoon Community Association Building, 315 Heendae Rd., Angoon, AK 99820
5. Angoon City Government Office, 700 Aan Deina Aat Street, Angoon, AK 99820
6. Angoon Senior Center, 812 Xootz Rd., Angoon, AK 99820
7. The FAA, Airports Division. Please contact Leslie Grey at (907) 271–5453 for a copy.

You may submit comments or request more information by any of the following methods:

1. Email: *comments@angoonairporteis.com;* include ''Angoon Airport EIS comments'' in the subject line of the message.

2. U.S. Mail: Angoon Airport EIS Comments, 1220 SW. Morrison, Suite 700, Portland, Oregon 97205.

3. In person: To drop off comments, contact Leslie Grey at (907) 271–5453.

Comments from interested parties on the Draft EIS are encouraged, and may be presented orally at the public hearings. Testimony will be limited to 5 minutes per speaker. The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EIS. Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy of the proposed action or merits of alternatives and the mitigation being considered. Reviewers should organize their participation so that it is meaningful and makes the agency aware of the viewer's interests and concerns using quotations and other specific references to the text of the Draft EIS and related documents. Matters that could have been raised with specificity during the comment period on the Draft EIS may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

FOR FURTHER INFORMATION CONTACT: Leslie Grey, AAL–611, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, Box #14, Anchorage, AK 99513. Ms. Grey may be contacted during business hours at (907) 271–5453 (telephone) and (907) 271–2851 (fax), or by email at *Leslie.Grey@faa.gov.*

SUPPLEMENTARY INFORMATION: The Alaska Department of Transportation and Public Facilities (DOT&PF) has requested funding and approval from the FAA for a new land-based airport and an access road to improve the availability and reliability of transportation services to and from Angoon. The DOT&PF's proposed action is located in the Admiralty Island National Monument and Kootznoowoo Wilderness Area (Monument–Wilderness Area). The FAA has proposed additional alternatives to the proposed action, including the no action alternative. The purpose and need is discussed in detail in the Draft EIS.

The proposed project would be comparable to other rural airports in Southeast Alaska, such as those at Kake or Hoonah. It would consist of a paved, 3,300-foot-long and 75-foot-wide runway, with future expansion to 4,000 feet long.

Construction of the proposed airport would be completed in two to three construction seasons. The impact categories considered in the Draft EIS include numerous categories as required by FAA Orders 1050.1E and 5050.4B. In addition, subsistence activities and wilderness character are evaluated. Because the DOT&PF's proposed action is located in the Monument–Wilderness Area, the DOT&PF has indicated that it intends to submit an application under ANILCA Title XI to use the lands, using the Draft EIS as supporting documentation.

Additional details regarding the project can be found on the project Web site at *www.angoonairporteis.com.*

Issued in Anchorage, Alaska, on December 31, 2014.

Byron K. Huffman,

Manager, Airports Division, AAL–600.

[FR Doc. 2015–00023 Filed 1–8–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0091]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated September 29, 2014, the Eastern Berks Gateway Railroad (EBGR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives.* FRA assigned the petition Docket Number FRA–2014–0091. EBGR is headquartered in Boyertown, PA, and is a for-profit subsidiary of the nonprofit Colebrookdale Railroad Restoration Trust. EBGR has petitioned for a permanent waiver of compliance for its Plymouth locomotive, Number 6434, from the requirements of the Railroad Safety Glazing Standards, 49 CFR part 223, for certified glazing in all windows and a minimum of four emergency windows. The locomotive was built in 1964. The locomotive is used for one or two weekly trips over 8.6 miles of track between Boyertown and Pottstown, PA, which serves as a feeder line to the Norfolk Southern Railroad that runs through Pottstown, PA. The line meanders through woods and rock formations. There are six public at-grade highway crossings on the railroad. Two of those crossings have automated flashing lights. The remainder is equipped with cross-bucks. The locomotive is used primarily for passenger excursion trains and for yard switching duties in Boyertown. The maximum speed limit for these operations is 10 mph. EBGR indicates no instance of vandalism or personal injury, and professes financial burden in retrofitting the locomotive to comply with FRA safety glazing standards.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be

submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 23, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on January 5, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–00114 Filed 1–8–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 490 (Sub-No. 2X)]

Greenville County Economic Development Corporation—Abandonment Exemption—in Greenville County, S.C.

Greenville County Economic Development Corporation (GCEDC) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* for GCEDC to abandon approximately 3.29 miles of railroad line extending between milepost AJK 585.34 in East Greenville, S.C., and milepost AJK 588.63 in Greenville, S.C. (the Line). The Line traverses United States Postal Service Zip Code 29607 and is located in Greenville County, S.C.[1]

GCEDC has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line, and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 8, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 20, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 29, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to GCEDC's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

GCEDC has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by January 16, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), GCEDC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by GCEDC's filing of a notice of consummation by January 9, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 6, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–00151 Filed 1–8–15; 8:45 am]

BILLING CODE 4915–01–P

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[1] The Board granted GCEDC authority to discontinue service over the Line in 2005. *See Greenville Cnty. Econ. Dev. Corp.—Aban. & Discontinuance Exemption—in Greenville Cnty., S.C.,* AB 490 (Sub-No. 1X) (STB served Oct. 12, 2005). Since 2005, GCEDC has provided no local or overhead common carrier service over the Line, and it asserts that it has not received any requests for common carrier service over the Line.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

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Federal Register

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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